

Vol. 792
No. 164



Tuesday
3 July 2018

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

| | |
|--|-----|
| Introduction: Lord Haselhurst | 489 |
| Questions | |
| Affordable Housing: Social Homes for Rent | 489 |
| Water: Bills and Executive Remuneration | 492 |
| House of Lords Reform: Elected Second Chamber | 494 |
| Prisons: Women | 497 |
| Mental Capacity (Amendment) Bill [HL] | |
| <i>First Reading</i> | 499 |
| Refugees (Family Reunion) Bill [HL] | |
| <i>Third Reading</i> | 499 |
| Saddleworth and Tameside Moors | |
| <i>Statement</i> | 499 |
| Govia Thameslink | |
| <i>Statement</i> | 503 |
| LGBT Action Plan | |
| <i>Statement</i> | 507 |
| Official Statistics Order 2018 | |
| <i>Motion to Approve</i> | 510 |
| Social Workers Regulations 2018 | |
| <i>Motion to Approve</i> | 513 |
| The Politics of Polling (Political Polling and Digital Media Committee Report) | |
| <i>Motion to Take Note</i> | 524 |
| Brexit: Reciprocal Healthcare (European Union Committee Report) | |
| <i>Motion to Take Note</i> | 549 |

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

*This issue of the Official Report is also available on the Internet at
<https://hansard.parliament.uk/lords/2018-07-03>*

The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

| 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 |

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

© Parliamentary Copyright House of Lords 2018,
*this publication may be reproduced under the terms of the Open Parliament licence,
which is published at www.parliament.uk/site-information/copyright/.*

House of Lords

Tuesday 3 July 2018

2.30 pm

Prayers—read by the Lord Bishop of Rochester.

Introduction: Lord Haselhurst

2.38 pm

The right honourable Sir Alan Gordon Barraclough Haselhurst, having been created Baron Haselhurst, of Saffron Walden in the County of Essex, was introduced and took the oath, supported by Lord Hunt of Wirral and Lord Lisvane, and signed an undertaking to abide by the Code of Conduct.

Affordable Housing: Social Homes for Rent *Question*

2.42 pm

Asked by Baroness Thornhill

To ask Her Majesty's Government how many social homes for rent they estimate will be built under the affordable housing programme.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, since 2010, we have delivered over 378,000 affordable homes, including 129,000 at social rent. Last week, we announced a £1.67 billion government investment deal that will deliver an additional 23,000 affordable homes outside of London, including at least 12,500 at social rent in areas where they are needed the most. This is part of the Government's £9 billion investment in affordable homes. The total number of homes delivered will depend on the bids received.

Baroness Thornhill (LD): I thank the Minister for his Answer, and I am genuinely pleased to see any increase in social housing. However, let us take that figure of 12,500, which my own authority will be bidding for—that actually equates to 25 homes a year. I am sure the Minister is aware that delivery is actually down. The numbers sound grand until you realise that 40,000 affordable homes were delivered in 2010 but the figure was down to 5,500 in 2016-17. Last year, 12,000 homes were lost to right to buy alone. Can the Minister understand why these proposals and the figures that he outlined are loose change in response to the evidenced need? Will he reassure us that the forthcoming Green Paper will be both bold and radical in its attempt to solve what I believe is a real social crisis?

Lord Bourne of Aberystwyth: My Lords, I am glad that the noble Baroness welcomes the progress made. In 2016-17, the year to which she referred, we saw 217,350 new homes delivered—the highest number in all but one of the previous 30 years.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I draw the attention of the House to my interests as set out in the register. How many homes for social rent

have been lost since 2012 due to government policy requiring conversion to affordable rent, and how many will be lost under the same policy if it continues until 2020?

Lord Bourne of Aberystwyth: My Lords, as the noble Lord will know, the affordable rent figures are generally the measure that is used. I have referred to the additional 23,000 affordable homes outside of London that we are committed to. He will know that we have a separate agreement with the Mayor of London, who is going to provide 26,000 affordable homes, although not as many at social rent as outside of London. I am sure the noble Lord will be pleased at the progress that is being made.

Lord Naseby (Con): Is my noble friend aware that the key element of affordable homes for rent lies with council housing? Is it not a fact that the last Labour Government produced precisely just over 500 homes a year for the previous three years—statistics which are in the Library for all to see? Against that background, the figures given by the Minister are greatly to be welcomed. In addition, can we soon expect a Statement on new towns or garden towns?

Lord Bourne of Aberystwyth: My Lords, on council houses, over the 13 years under Labour from 1997 to 2010, some 2,920 council homes were built whereas between 2010 and 2017, more than three times that number were built in a shorter period. On the general position as regards council housing, my noble friend will know that the £1 billion borrowing that we have committed to is now open for bids around the country. I think that 137 local authorities have shown an interest in this and bids are open until 7 September this year. He also referred to new towns, which are an important part of our programme. Next Monday my noble friend Lord Young will be presenting to the House some statutory instruments on these issues.

Lord Watts (Lab): My Lords, is it not the case that the last Labour Government spent millions and millions on bringing homes up to a decent standard after they inherited housing which was in a worse state than it had been for many years?

Lord Bourne of Aberystwyth: My Lords, I am afraid that the figures speak for themselves. Far more housing has been built in the past seven years than was built under 13 years of Labour. While I grant that it is important to ensure that homes are fit for occupation, it is far more important that we build houses that are fit for occupation. As I say, the figures speak for themselves by showing a massive improvement over the past few years.

Lord Shipley (LD): My Lords, I refer to my interests as declared in the register. My noble friend said that over the past year, 12,000 social homes have been sold under the right-to-buy scheme. Perhaps I may remind the Minister that current estimates suggest that the commitment that the Government made a few years ago on a one-for-one replacement of homes sold under

[LORD SHIPLEY]

the right to buy has not been achieved, and on current announcements made in the past few days, it will not be achieved? Might the Government consider permitting local authorities to keep 100% of right-to-buy receipts?

Lord Bourne of Aberystwyth: My Lords, inherent in the noble Lord's question is the importance of right to buy—and, indeed, refreshed right to buy and enhanced right to buy—which I acknowledge. I agree with him about the importance of permitting local authorities to use those receipts to build more. That has been happening at a greater rate, but I acknowledge that he is right to say that more could be done.

Lord Best (CB): My Lords—

Lord Hunt of Kings Heath (Lab): My Lords, following on from my noble friend's question—

Lord Taylor of Holbeach (Con): My Lords, the noble Lord, Lord Best.

Lord Best: Thank you, I am most grateful. I congratulate the Government on moving towards more genuinely affordable low rents. We are seeing a swing in the pendulum; I hope that it is just the start of a swing that goes a lot further than it has done so far, but we are now heading in the right direction. Can the Minister impress on his Treasury colleagues that it really is important that rents are low enough for people genuinely to afford because otherwise the Treasury is paying more in housing benefit, people's work incentives are much worse, and we end up with homelessness? We can see already that housing associations and councils have to turn people away because those on the lowest incomes cannot afford the so-called "affordable rents". It would be to the benefit of the Treasury if the Minister could argue the case for more grant aid in support of real social rents.

Lord Bourne of Aberystwyth: My Lords, the noble Lord has done a massive amount in this area. I acknowledge that a lot of my life is spent arguing with the Treasury about various issues, as he can imagine, but I would impress on him that when rent controls were in place, we had a far less vibrant rental market than we do now. We would not want to go back to that sort of control.

Lord Hunt of Kings Heath: My Lords, will the noble Lord answer my noble friend's question? The inheritance of council stock in 1997 was so bad that the resources of the Labour Government had to be put into restoring them to anywhere like living capacity.

Lord Bourne of Aberystwyth: I would not acknowledge that. I acknowledge that work was done on that basis but I do not think that the Labour Party or Labour Government should get off the hook on their deplorable record of council house building in that period.

Water: Bills and Executive Remuneration Question

2.50 pm

Asked by **Baroness Jones of Whitchurch**

To ask Her Majesty's Government what assessment they have made of increases in customer water bills and levels of remuneration paid to water company executives.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, average water and sewerage bills fell in real terms from £420 in 2009-10 to £395 in 2017-18. Bills will continue to fall. Ofwat expects a further average reduction of 5% in 2020-25. The Government support Ofwat's action to increase transparency of executive pay and bonuses, which must be based on better services for customers.

Baroness Jones of Whitchurch (Lab): I thank the Minister for his reply, but he will know that water bills have risen by 40% above inflation since privatisation and nearly 2 million will need help to pay their water bills by 2020. Despite poor levels of customer service, water company bosses are paying themselves huge salaries and bonuses, with CEO pay averaging £1.2 million. Some of them are paid twice that amount. At the same time, water companies are hiding behind complex financial structures and offshore havens to avoid paying taxes. The Secretary of State has been critical of the water companies, but what is he actually doing on the ground to make sure that profits are focused on better preparation for weather extremes, not just paying excessive bonuses to the few?

Lord Gardiner of Kimble: My Lords, the noble Baroness's question is extremely timely. Only today, Ofwat published a summary of the changes to the upcoming price review process, which were discussed with my right honourable friend the Secretary of State, who agrees entirely with Ofwat's actions. It will require companies to share the benefits of high levels of debt finance with customers, ensure that performance-related executive pay rewards genuinely stretching performance—which benefits customers—and be transparent about dividends and explain how they relate to costs and service delivery to customers. If necessary, we will go further.

Baroness McIntosh of Pickering (Con): My Lords, I declare my interests in the register; I also co-chair the All-Party Parliamentary Water Group. Does my noble friend the Minister agree that Britain was the dirty man of Europe in the 1980s and, through privatisation and EU environmental directives, we have now improved water quality? Going forward, what benchmarks will the Government use to continue to improve water quality in this country?

Lord Gardiner of Kimble: As my noble friend said precisely, we wish to improve water quality. Let us be clear: since privatisation, customers are eight times

less likely to suffer sewer flooding. The number of serious water pollution incidents caused by the water industry reduced significantly from over 500 in the early 1990s to 57 in 2016. Clearly, there is room for improvement. That is what both Ofwat and we in Defra want. In terms of what has been achieved with the £140 billion investment since privatisation, our water quality is improving and we want it to improve even more.

Lord Scriven (LD): My Lords, in the latest published Ofwat figures, Yorkshire Water scored 12 out of 18 for customer satisfaction, yet the chief executive officer took home £1.3 million of pay, pension and bonus payments last year. That is seven times more than the Prime Minister. Can the Minister guarantee that the changes announced today by Ofwat will never allow a chief executive officer to be paid for such bad customer satisfaction in future?

Lord Gardiner of Kimble: My Lords, I am absolutely clear that Ofwat's requirements of companies are very clear on the issue of performance-related executive pay. We are willing to take regulatory action to support Ofwat's reforms if water companies do not readily co-operate.

Lord Berkeley (Lab): My Lords, does the Minister agree that one way of reducing water bills would be for the water companies to reduce their dividends? Last year, Thames Water declared a £55 million dividend which then got paid to one of its holding companies and, through a complex chain, ended up at Macquarie. It then had the gall to say in its annual report:

"No dividends or interest on shareholder debt was paid to external shareholders",

in the same year. Surely that is stretching truth and credulity much too far. Will the Minister do something about that, please?

Lord Gardiner of Kimble: I feel I am repeating exactly what Ofwat has announced, as it is the statutory regulator, in terms of its requirements on increasing transparency on both dividends and executive pay. We are absolutely clear that this is a public service provided under private ownership and there are responsibilities that go with that. There have been very considerable improvements since privatisation, but there is a wake-up call to the water companies.

Lord Kirkhope of Harrogate (Con): My Lords, speaking as a former director of a water supply company, I ask whether my noble friend agrees that the level of investment by our privatised water companies has never been paralleled to the present position? Would he not also commend the actions of water companies that are now involved in active water transfer plans, such as those between the Kielder reservoir and Yorkshire?

Lord Gardiner of Kimble: My Lords, my noble friend has highlighted an issue that I think we need to hear more of, particularly as we look at climate change and increasing population. We need to secure more water transfers between water companies, which will

build resilience and reduce the cost of meeting future demand. So I am very pleased with what is going on already, but the water companies need to work more and we need to increase our infrastructure.

Lord Foulkes of Cumnock (Lab): My Lords, is the Minister aware that there is one part of this country, the United Kingdom, where we do not have any of these problems of highly paid water executives, because under successive Governments of different parties, water has remained in public ownership—and that is Scotland?

Lord Gardiner of Kimble: Well, your Lordships know that I am very keen on Scotland, but I entirely disagree with the noble Lord about privatisation.

Lord Foulkes of Cumnock: Come to Scotland!

Lord Gardiner of Kimble: Privatisation has permitted us £140 billion. There are so many examples of what the investment was before privatisation. The noble Lord shakes his noble head, but privatisation has made a very considerable difference to water quality, the quality of our beaches and the reduction in water pollution. However, there is more to do.

Lord Forsyth of Drumlean (Con): My Lords, on the question of Scotland, where the investment has to come from government and not from the private sector, could that explain why the Scottish Government have not spent their Barnett allocation on the health service? Is it because they have had to divert money down the other pipes?

Lord Gardiner of Kimble: My noble friend has given a much better answer than mine, and the noble Lord is still shaking his noble head.

House of Lords Reform: Elected Second Chamber

Question

2.58 pm

Asked by Baroness Jones of Moulsecoomb

To ask Her Majesty's Government what plans they have to replace the House of Lords with an elected second chamber.

Lord Young of Cookham (Con): My Lords, none.

Baroness Jones of Moulsecoomb (GP): The Minister did warn me that he was going to give me a brief reply, but I had hoped for more than one word. During the coalition Government there were plans for reform, which were dropped because of Back-Bench rebellion and that sort of thing, but since then the public atmosphere has changed and even staunch traditionalists are calling for the abolition of this House. Does the noble Lord not think that the Government should think again and make this House truly representative, accountable and democratic?

Lord Young of Cookham: I say to the noble Baroness that no discourtesy was intended and that it allows noble Lords more time to ask questions. Perhaps I may remind your Lordships of the proposals in the noble Baroness's House of Lords Reform Bill last year. The hereditaries would disappear, to be replaced by 292 elected Peers for eight years on a regional basis. The rest of us, including the Lords spiritual, would survive. We would be able to speak but not vote—we would be talkers but not walkers—enabling the Whips to focus their skills on the small minority who actually mattered. I think that having non-voting and voting Peers would introduce unacceptable class barriers into your Lordships' House. It would also pose a problem for the Cross-Benchers. If the Cross-Benchers wanted to survive, they would have to stand for election, which might prove to be an indignity for some of them. The noble Baroness also suggested that, if they wanted to do that, they would have to stand as a party. We would all envy the role of the Convenor in trying to corral the various Members on the Cross Benches into a party. That would make the rest of us look positively disciplined.

Baroness Smith of Basildon (Lab): My Lords, when the noble Baroness talks about elections to this House, we should perhaps be mindful that an elected second Chamber might not be so mindful of the primacy of the elected House. A constitutional convention may well be the best way forward. When we look at reform, we know that the wheels of progress sometimes move very slowly. But this House has already agreed a way forward. The noble Lord, Lord Burns, and his committee made proposals to reduce the size of the House so it would not be as large as the Commons, for 15-year terms and, to get to that point, for there to be two out and one in. Does he not think it is time the Government took those proposals on board and moved forward on Burns? Reform has been agreed by this House: it is the Government holding up reform, not your Lordships' House.

Lord Young of Cookham: The noble Baroness will know that the Prime Minister responded to the Burns report, and my party has responded very positively to the suggestion that numbers should come down. The House may remember the figures I gave in an earlier exchange: 15 noble Lords have retired since October last year—eight Conservatives, four Cross-Benchers, two Labour and one Democratic Unionist—but, sadly, no Lib Dems. My party has played its part in reducing the number of Peers. We urge other parties to follow our example.

Lord Tyler (LD): My Lords, I commiserate with the Minister. In a previous existence in the other place, he indulged in a very considerable effort to get the 2012 coalition Bill through, and secured the biggest majority for such a Bill. Does he note now that he was thwarted by an unholy alliance between the Opposition Front Bench and rebel reactionary Tories? Does he also note that the public believe that the complete abolition of your Lordships' House would be preferable to maintaining it in its present undemocratic state?

Lord Young of Cookham: I am not sure on what evidence the noble Lord makes that final statement. He is quite right that in the Parliament before this there was a majority of 388 on Second Reading for the Bill that he referred to—partly, perhaps, because I wound up that debate. Sadly, it was not possible to progress with a programme Motion, partly because of some dissent in my own party—I would not call them rebel reactionaries, as I think the noble Lord did—but, had the Labour Party joined the Government in the Lobbies, that programme Motion would have been passed. So I think the responsibility needs to be shared.

The noble Lord was right to remind the House that there is some discontent in the other place about the role of your Lordships' House. There was a debate last week in the other place on the abolition of your Lordships' House and some disobliging remarks were made. It was the view of one Member of Parliament that,

“it is about time the Commons decided who is an appropriate Member of the second Chamber ... Select Committees are the obvious bodies to interview them”.

Another said:

“My final point is that whatever money we save from the House of Lords should be given to MPs—not in pay but to run our offices”.—[*Official Report*, Commons, 18/6/18; col. 13WH.]

But I do not believe that there is a public appetite for the abolition of the second Chamber.

Lord Low of Dalston (CB): My Lords, I do not favour election, but does the Minister not agree that it might constitute a worthwhile advance if Members of this House were still to be appointed, possibly by an appointments commission, but greatly strengthened by a system of nominations from the different branches of civil society, such as the law, medicine, the arts, sport, education, the armed services, business, trade unions, the third sector, and so on?

Lord Young of Cookham: I agree that all those professions and interests should be represented in your Lordships' House and that the Cross Benches have a good representation of those interests. I think there is a quota of Peers allocated each year to HOLAC in order to appoint more Cross-Bench Peers. All this is against a background of the Prime Minister exercising restraint on political appointments. The recent Dissolution Honours List was the smallest since 1979—and here I warmly welcome my noble friend Lord Haselhurst.

Baroness Altmann (Con): My Lords, I think most noble Lords would accept the idea that the size of the Chamber needs to be reduced, and it will be in due course, but does my noble friend agree that in the recent passage of the European Union (Withdrawal) Bill the House of Lords proved its value, working across party, across the House, together to make significant improvements to the Bill?

Lord Young of Cookham: The House of Lords played its traditional role as a scrutinising Chamber, looking at legislation that came before it. Some amendments were made, and I am glad that, when it came to the second stage of ping-pong, the House recognised the primacy of the elected Chamber.

Prisons: Women

Question

3.05 pm

Asked by **Baroness Burt of Solihull**

To ask Her Majesty's Government how they will ensure that provision for women in the prison system is properly funded, following their decision to abandon plans for five community prisons for women in England and Wales.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I can confirm that there are no plans to reduce funding for the women's custodial estate. We want to provide the best rehabilitative regimes possible which are specifically tailored to women's needs to break the reoffending cycle. We are also increasing the number of front-line prison staff, designing a new offender management and custody model tailored to the needs of women and continually improving standards in our prisons.

Baroness Burt of Solihull (LD): My Lords, this move is very welcome, but can the Minister elucidate? This initiative is costing only £5 million for the initial investment, as opposed to the £50 million that building five new prisons would have entailed, the balance being returned to the Treasury. What is the timetable for building each of these residential centres and how many women will be accommodated initially? If the pilots are successful, how many centres will be built? Finally, will the Minister assure the House that funding will be found to roll out this programme throughout England and Wales, so that we can stop locking women up in prison for minor offences and start tackling the underlying reasons why most of them end up in prison in the first place?

Lord Keen of Elie: My Lords, we are of course concerned to address short custodial sentences and the viability of moving towards community-based sentences. I thank the noble Baroness, Lady Burt, for acknowledging that this is a move in the right direction. I should perhaps clarify that the £5 million that has been referred to will be used for our work with partners in the community for community-based resolution for women. In addition, we are providing for a women's centres pilot which will involve five residential women's centres, but that budget is distinct from the £5 million. I hope I have made that clear. I cannot give a precise timescale for the rolling out of that pilot, but we do have it in course.

Baroness Corston (Lab): My Lords, I, too, welcome the fact that the Government have abandoned their prison building programme in favour of women's community centres. That is certainly better than anything that happened under the coalition. However, I point out to the Minister that in 2017 one-quarter of the women sentenced to prison were serving sentences of less than one month, and 217 women were sentenced to less than two weeks. What action are the Government going to take to stop magistrates imposing these ludicrous sentences?

Lord Keen of Elie: I am obliged to the noble Baroness. One has to bear in mind that there are instances in which custody is the only appropriate resolution, even in the case of women offenders, but of course we want to minimise that. At the moment, we have brought down the female prison population from a high during the Labour Government of 5.4% to a current figure of 4.6%. We appreciate that a large proportion of them are serving short custodial sentences. The figures I have indicated that in 2017, 72% of custodial sentences for women were six months or less, and that is an issue that we do wish to address.

Lord Alton of Liverpool (CB): My Lords, will the Minister reflect for a moment on why the number of community sentences given to women has fallen by half over the last decade? Will he reflect also on the level of mental health issues among women? They are said to be five times more likely among women in prisons than in the general population.

Lord Keen of Elie: My Lords, there are issues that arise more frequently and more obviously among female offenders. Indeed, to quote just a few of the figures, 60% of female offenders who have an assessment have experienced domestic violence, while drug misuse is identified in about 40% of cases and alcohol misuse in about 25%. These issues therefore arise more particularly within the female cohort of offenders. With regard to community orders, it is part of our task to reinvigorate their use, which will involve us in persuading the courts at all levels of the practicality and effectiveness of such sentences.

The Lord Bishop of Gloucester: My Lords, I am grateful that Her Majesty's Government do not intend to open new women's prisons, as has been said, and I am grateful for the assurance that more money will be put into women's centres. However, what work will be done to ensure that those who sentence know what is actually available in the community?

Lord Keen of Elie: My Lords, I am confident that the sentencing guidelines, and judicial guidelines in general, are sufficient to inform all levels of the judiciary as to the appropriate way in which to treat sentencing provision. Indeed, there is further guidance on this in England and Wales, which the noble Lord at the back may not be familiar with.

Lord Foulkes of Cumnock (Lab): The right reverend Prelate is also shaking her head.

Lord Keen of Elie: Looking in this direction, I can only see the noble Lord's head shaking. However, it might not be in disagreement; maybe it is an affliction, and I apologise. With regard to sentencing, there are clear guidelines, which include guidelines from the Court of Appeal over sentencing where there is an impact on children and other dependants.

Lord Trefgarne (Con): My Lords, is my noble and learned friend satisfied with the arrangements for looking after the most elderly prisoners, who, although small in number, need special facilities?

Lord Keen of Elie: I am obliged to my noble friend. There is an issue of an ageing prison population, and that is addressed in our management provision for prisoners in custody.

Baroness Butler-Sloss (CB): I do not know whether the Minister is aware that although there are guidelines, they do not seem to be getting through to a number of judges. I have been told anecdotally of judges who do not know about the community centres for women.

Lord Keen of Elie: I am not aware of the noble and learned Baroness's source of information in that regard, but clearly, we need to ensure that these guidelines are properly understood at every level of the judiciary.

Mental Capacity (Amendment) Bill [HL]

First Reading

3.13 pm

A Bill to amend the Mental Capacity Act 2005 in relation to procedures in accordance with which a person may be deprived of liberty where the person lacks capacity to consent, and for connected purposes.

The Bill was introduced by Lord O'Shaughnessy, read a first time and ordered to be printed.

Refugees (Family Reunion) Bill [HL]

Third Reading

3.14 pm

A privilege amendment was made.

Bill passed and sent to the Commons.

Saddleworth and Tameside Moors

Statement

3.14 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House, I will now repeat an Answer to an Urgent Question posed yesterday in another place:

"Mr Speaker, the wildfires on Saddleworth Moor near Manchester and across the border in Lancashire at Winter Hill near Bolton and into Derbyshire remain major incidents. The number of fire appliances and firefighters on scene fluctuates each day according to the immediate need. However, Manchester fire and rescue service has about 30 fire appliances currently deployed and 29 appliances have been deployed to the Lancashire fire. In addition, two high-volume pumps are in use, with a variety of specialist equipment and teams.

Support is being provided by other fire and rescue services from across the north of England and as far afield as the West Midlands, and a team of specialist wildfire firefighters from Wales has also attended the Winter Hill site. This wider support is being co-ordinated by a team in Merseyside Fire and Rescue Service, directly funded by the Home Office, which provides specialist support in major emergencies such as this.

One hundred military personnel have been providing support on Saddleworth Moor since Thursday, and the initial three-day deployment has been extended to tomorrow, with a request now received for the soldiers to continue their support to Manchester fire and rescue service through until Friday. The response currently also includes one helicopter from the local water company, and support from the National Police Air Service.

We remain in regular contact with the fire and rescue services responding to the incident, and I have spoken about the fires with the chiefs of Manchester and Lancashire fire and rescue services, and the Home Secretary has also spoken to the Mayor of Manchester, Andy Burnham.

I place on record my appreciation of the incredible work of the firefighters, military and other partner agencies in responding to these wildfires. The current hot, dry weather means that the fires are likely to persist for some time, and the Government continue to liaise with the responders on the ground who are tackling the fires and are ready to provide further support when it is needed".

3.16 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I thank the noble Baroness for repeating the Answer to the Question in the other place yesterday. I join her in expressing my thanks to the firefighters, the Army, the local authorities and others for their tireless work in this extreme and hostile environment. Will she join me in condemning anyone involved in setting fires in the area as dangerous, irresponsible idiots, and confirm that the Government will give any assistance required to bring the perpetrators to justice?

Baroness Williams of Trafford: I most certainly will, using exactly the same words as the noble Lord, although I shall not utter them. I understand that one arrest has been made, but he is right: it is an act of the most terrible folly to endanger both the countryside and, potentially, the lives of people and animals.

Baroness Pinnock (LD): My Lords, this is a serious and significant fire for those of us who live in the north of England. Our thanks and recognition are due to all those who are fighting to contain the fire. Nine days on, the fire has been only contained, not put out. How much financial support is being given to the local authorities covering, I think, nine fire services which are now fighting the fire? What help is being given to combat the air pollution, which will have a serious effect on those who already have lung-related illnesses? Lastly, if the wind changes direction to its more normal westerly or south-westerly, which will drive the fire across into Yorkshire, what contingency plans are in place to stop it spreading even further?

Baroness Williams of Trafford: In terms of financial support, there has not been a Bellwin request yet, but any help that is needed has been forthcoming. The noble Baroness will have heard in my Statement about the types of help that have been forthcoming. She asked whether the wind changes direction. A fire shield

has already been put up that has stopped wind changes from spreading the fire even further but, of course, this is a process of ongoing monitoring and risk assessment, and the appropriate action will be taken as needs be.

Lord Jopling (Con): My Lords, have the Government attempted to bring in those large yellow seaplanes which I have seen operating in Canada, France and Italy, and which are much more effective at dealing with fires of this nature than helicopters because they have infinitely greater capacity? That really would be a far better way in which to try to deal with a fire.

Baroness Williams of Trafford: My noble friend is right to ask that, but we have to be clear here that we are guided by the Greater Manchester Fire and Rescue Service. In being guided by that service, I can tell my noble friend that helicopter assistance is in use with water buckets and is complementing the ground attack, if you like. There is one helicopter from United Utilities, and support as needed from a further helicopter from the National Police Air Service, but I will take his comments back.

Lord Hoyle (Lab): Does the Minister agree, as she knows the area very well, that the beautiful and magnificent village of Rivington is in grave danger? Does she agree with me also that it is right that Lancashire Fire and Rescue Service makes this a top priority?

Baroness Williams of Trafford: I do know the area very well, as I was nearly elected to a place near there. In fact, we passed the Winter Hill site on our way up to the Lake District on Saturday. The noble Lord is absolutely right to make that point about Rivington. As part of the risk assessment that is going on all the time, I am sure that everyone will be very mindful, given the proximity to Rivington.

Lord Trefgarne (Con): My Lords, why is it impossible to deploy more RAF helicopters?

Lord Alton of Liverpool (CB): My Lords—

Baroness Manzoor (Con): My Lords, I think that it is the turn of the Cross Benches.

Lord Alton of Liverpool: My Lords, I endorse what has been said about the unspoilt beauty of the area. I too saw Winter Hill at the weekend, and have seen Saddleworth Moor too. As the Minister has said, it is a real tragedy to think of the risks that there have been to the countryside and wildlife. As the noble Lord, Lord Kennedy, said, it is crucial that those who have been responsible for so irresponsibly lighting fires on these moors are brought to justice. I hope that the Government will speak out clearly that no quarter will be given on this. Huge damage is being done, which will have to be remedied in due course. There have been reports that some of the communication structures and masts on some of the moors are at risk. Can the Minister tell us anything about that?

Baroness Williams of Trafford: If the noble Lord is talking about the communication mast on Winter Hill—anyone who lives in that area will know it well, because it sticks out so prominently—I understand that at this time it is safe. Clearly, risk assessments are going on all the time. I echo the noble Lord's comments that anyone who is wilfully setting fires is not only endangering other people's lives but endangering the beautiful countryside that they have up there.

I shall probably come in on the question of the RAF helicopters. Did my noble friend want to ask any other question?

Lord Trefgarne: No—that will do nicely.

Baroness Williams of Trafford: As I said to my other noble friend, in terms of what is deployed and when we are guided by the fire and rescue service but have also been in close contact with the fire chiefs and the Mayor of Greater Manchester, Andy Burnham. We are guided by local knowledge and assessment, and we are providing what is requested as being needed to fight the fires.

Lord Lee of Trafford (LD): My Lords, it was reported on the radio this morning that the Fire Brigades Union was appealing for baseball hats, sun cream and socks to be sent to the firemen who were working. These firemen work heroically in horrendous conditions. Surely the local councils and the Government should ensure that they have all these facilities and capabilities. It is quite ridiculous that the Fire Brigades Union has to make this sort of appeal.

Baroness Williams of Trafford: Such is the danger of Twitter that I hope I can set the record straight: we understand that the tweet that went out to the public from Manchester FRS was not a formal request. If a request was put to us, we would certainly follow it up, but no such request has formally been put to the Home Office.

Lord Swinfen (Con): My Lords, as the climate appears to be getting warmer, will we invest in the sort of firefighting aircraft that the Mediterranean region has, which can carry much larger loads of water at any one time?

Baroness Williams of Trafford: My Lords, it is important to put into context what has gone on in the last couple of weeks in Greater Manchester. The fires are terrible, but we have wildfires all the time. That process of risk assessment and deployment of emergency services is ongoing. I would not like to pre-empt what type of aircraft or firefighting equipment are needed to deal with wildfires, but it is certainly something that the fire and rescue service will be mindful of as it makes risk assessments, if indeed we see a continued trend of this type of warm weather.

Earl Attlee (Con): My Lords, the Army has a wide range of cross-country water tankers. Why are they not being deployed? Will the Minister assure the House that it has nothing to do with difficulties in negotiating the finance?

Baroness Williams of Trafford: My Lords, I reiterate to my noble friend that any request for assistance has been met and, therefore, if certain vehicles, aircraft and water pumps are not deployed, that is because they have not been requested.

The Duke of Montrose (Con): My Lords, I declare an interest as somebody who owns a heather moor. I wonder if the Government will look into whether the moor was subject to moorland management—some conservation bodies nowadays believe in not managing moors at all.

Baroness Williams of Trafford: My noble friend asks a very pertinent question. I will refer it to my colleagues in Defra because I do not know the correct answer to it.

Govia Thameslink *Statement*

3.27 pm

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, with the leave of the House I will repeat in the form of a Statement the Answer given by my honourable friend the Minister of State for Transport to an Urgent Question in the other place. The Statement is as follows:

“The Shadow Transport Secretary has asked about the current situation on GTR and about electrification. I will answer each in turn.

Performance on GTR has been unacceptable since the timetable change on 20 May. GTR is working to increase the predictability and reliability of journeys on its network, including reducing the number of on-the-day cancellations. On 15 July, it will implement an interim timetable. This will allow GTR to slowly build up services to the originally planned May timetable. We have announced that passengers affected by severe disruption on GTR will receive special compensation; an announcement will follow shortly.

We have also commissioned the independent Glaister review to make sure we learn lessons and so that this does not happen again. We have started a formal review of the franchise to establish whether GTR has met its contractual obligations in the planning and delivery of the May timetable. We will not hesitate to take tough action against it if it is found to have been negligent.

On electrification, the Government are clear that passengers expect high-quality rail services and we are committed to electrification where it delivers passenger benefits and value for money. We will also take advantage of state-of-the-art, new technology to improve rail journeys.

Over recent days, there has been speculation over the trans-Pennine route upgrade. I can clarify for colleagues that the trans-Pennine route upgrade will account for one-third of our anticipated expenditure for rail enhancements nationwide for the next spending period. It will be the biggest single investment we will make during this period, demonstrating our commitment to improving passenger journeys in the north.

The department is currently awaiting Network Rail’s final project plan. We have instructed it to prioritise those elements which bring the quickest passenger benefits. We will update the House on this in due course”.

3.29 pm

Lord Rosser (Lab): An industry readiness board was set up to review and direct “industry programmes for Thameslink 2018 operational readiness to minimise all risks associated with entry into service and ongoing sustained operations”. The Department for Transport sat on that board. Bearing in mind that the Secretary of State for Transport claims that he has no responsibility for the current new timetable shambles, why was the Department for Transport on that readiness board with its operational readiness remit?

Secondly, the Secretary of State has set up an inquiry into the causes of the current new timetable problems under the chair of the Office of Rail and Road. Some think that the ORR, which also sat on the readiness board, is one of the causes of the current problems through its cost-reduction demands on Network Rail and their impact on train planning costs and manpower. Who, then, will be considering the role of the ORR in respect of the current Thameslink timetable problems, since clearly that person cannot credibly be the chair of the ORR?

Baroness Sugg: My Lords, on the operational readiness board, the timetable was planned to introduce major changes and rail companies communicated these changes extensively to their passengers. However, the level of disruption caused by the introduction of the timetable was obviously not anticipated. We are working closely with GTR to put this right. One issue was that the operational readiness board did not anticipate the disruption, so the review will cover that.

On the review itself, Professor Stephen Glaister, who is chairing it, is from the independent rail regulator, the ORR. The inquiry will consider why the industry as a whole failed to produce and implement an effective timetable. There are various independent people on that review and they will consider the role of the ORR, train operating companies and, indeed, the Department for Transport.

Baroness Randerson (LD): My Lords, I am interested in why the Government are suddenly so concerned about the appalling service from GTR when Southern, for instance, has been in a state of prolonged crisis for years and passengers have been left to suffer. Can the Minister explain the Government’s sudden change of heart?

Given the information from the operational readiness board, why did the Government not take the sensible step of deferring the new timetables? The Minister said in a Written Answer to me that the Secretary of State had not seen the minutes that warned of this impending chaos. Why was the Secretary of State not informed of the situation? When will the terms of compensation be precisely known?

Turning to electrification, the Government are very coy about the whole issue but we have rumbled the Secretary of State: when he skirts around a subject, it

always means bad news. What is the Minister's reaction to today's ORR report, which warns that Network Rail has deferred £441 million of renewals this year, adding further to the backlog of work it needs to catch up on in CP6? Why do the Government want to phase out diesel cars while promoting diesel railways?

Baroness Sugg: My Lords, on GTR and Southern, obviously there has been awful disruption on Southern in recent years. The franchise was designed to deliver the Thameslink programme and the department has been keeping a close eye on that. However, with the introduction of the new timetable, services have further failed.

On the information provided to the Secretary of State and around the wider timetable changes, I fully acknowledge that the correct information was not given to the Secretary of State. That is why we have set up this inquiry: to ensure that we learn lessons for the future and investigate what went wrong.

On compensation, we are working hard with the train operating companies and Network Rail on the exact details, which will be announced in the coming days.

Lord Pannick (CB): My Lords, on 4 June the Secretary of State told the House of Commons, in relation to GTR:

"Let me be absolutely clear: passengers on these franchises are facing totally unsatisfactory levels of service".—[*Official Report*, 4/6/18; col. 1190.]

He added that,

"my immediate priority is to ensure that the industry improves train services to an acceptable level as quickly as possible".—[*Official Report*, 4/6/18; col. 1194.]

As a commuter on the Thameslink route from Radlett to City Thameslink, may I tell the Minister that the service has not improved over the last month? Indeed, it is getting worse. Will the Minister please tell me and the House why the Secretary of State has not done what he promised to do a month ago?

Baroness Sugg: My Lords, I apologise to the noble Lord for the experience he has had on his commute, and to all passengers. Resolution of this issue remains an absolute priority. GTR is currently working towards implementing a temporary timetable on 15 July, with the aim of bringing stability and performance improvements for passengers. Like many passengers on Thameslink and Great Northern, I am frustrated that the service is not stabilising sooner. GTR has a new CEO, who starts on Monday. He has been given a clear mandate to improve stability, and we expect the timetable change to start delivering improved reliability and stability to the service.

Lord Framlingham (Con): My Lords, given the chaos that is now reigning nationwide on the railway network, I think it is generally admitted that the time has surely come to scrap the ridiculous HS2 project and spend the billions of pounds saved on putting the rest of the network right.

Baroness Sugg: My Lords, my noble friend never fails to disappoint me by raising HS2 in rail questions. The Government remain firmly committed to HS2. One of the reasons for the introduction of the new

timetable was to ensure that we have more capacity, since passenger demand has doubled in recent years. HS2 will help deliver that much-needed capacity.

Lord Clark of Windermere (Lab): My Lords, yesterday the Secretary of State tried to reassure the people of the north that the trans-Pennine electrification schemes would go ahead. Does that apply to all the electrification schemes in the north, such as the Lakes Line, which was refused recently? On the subject of the Lakes Line, will the Government look seriously at the way in which Northern Rail stopped running trains on a whole railway line, with no trains at all for four weeks, and is now only running half the trains? The Government seem to be endorsing this as a great success.

Baroness Sugg: My Lords, I certainly would not call that a great success. I am pleased that it started the restoration of the service yesterday, albeit a lesser service, helped by replacement buses. Trans-Pennine is our biggest planned investment project on the existing railway and is due to start next spring. It will be a rolling programme of enhancements, including both major civil engineering and electrification. On the Lakes Line in particular, we want to deliver additional direct services between Windermere and Manchester. These will first be delivered using a bi-mode train, adapted from a former electric-only train. Subject to the business case, there will also be brand new trains on the route with more seats and better on-board facilities. I know that Northern is exploring the possibility of introducing an alternatively fuelled train on the route.

Lord Laming (CB): My Lords, the House will appreciate the concern that the Minister has for those of us who travel on Govia Thameslink Railway. It introduced a novel piece of advice for those of us trying to get to London this morning: that we should get on a train going north, in the hope that we stood a better chance of getting on a train going south further up the line. At the weekend, we were excited at the news that Govia might lose the franchise. Will the Minister assure the House that that is a serious possibility? Seven weeks later, the trains are still in a dreadful mess and there is no communication with passengers, and there seems to be no concern from the management.

Baroness Sugg: My Lords, I have heard the terrible first-hand experiences of family and friends, and many Members of this House. I entirely agree that GTR needs to get much better in the provision of information, so that passengers could at least attempt to plan their commute. On the hard review, announced by the Secretary of State, the department has begun an external audit of GTR by professionals with decades of experience in the rail industry. This will be a thorough examination of the performance and management of the franchise. The initial audit will take a number of weeks and will provide the department with evidence on which to base our next steps. Once complete, the audit could lead to the introduction of a remedial plan, a significant fine for GTR or, as a last resort—and if it best serves the interests of the passengers—the removal of the franchise from the operator.

LGBT Action Plan

Statement

3.39 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House, I shall repeat in the form of a Statement the Answer given in the other place by my right honourable friend Penny Mordaunt. The Statement is as follows:

“In July last year, the Government launched a national survey asking lesbian, gay, bisexual and transgender people about their experiences of living in the UK. I am pleased that the Government are today publishing the findings from the survey, alongside an LGBT action plan that sets out the Government’s policy response to the results.

The national LGBT survey received over 108,000 responses, making it the largest national survey of LGBT people conducted in the world to date. Responses covered a range of issues, including safety, health, education and the experience of being LGBT in the UK. The findings will serve as a crucial addition to the evidence base. While there were many positives to take from the findings, they also showed that there is more to do before we achieve equality for LGBT people in the UK.

The LGBT action plan contains 75 actions that the Government will take to address the survey findings. These include the appointment of a national LGBT health adviser within the NHS to tackle the health inequalities that LGBT people face, the extension of our existing anti-homophobic, biphobic and transphobic bullying programme, and a commitment to end the practice of conversion therapy in the UK. This plan will be supported by the provision of £4.5 million from within existing Government Equalities Office budgets between now and 2020. I want this plan to be delivered by the end of this Parliament, and funding beyond 2019-20 will be agreed through the spending review process.

The documents that the Government are publishing today represent a significant milestone in this Government’s commitment to building a country that works for everyone, irrespective of their sexual orientation or gender identity”.

3.41 pm

Baroness Gale (Lab): My Lords, I thank the Minister for her Statement and welcome the action plan and the announcement today that the Government will launch a consultation on changes to the Gender Recognition Act. However, as the Minister said, some of the findings from the survey suggest that there is more to be done and can make difficult reading. It is clear that there will be a lot of work to do to ensure that LGBT people are respected and able to live their lives in public without fear.

The LGBT action plan says that the Government will bring forward proposals to end the practice of conversion therapy, which is to be welcomed. Can the Minister confirm that this will be a full ban and tell the House how it will be enforced?

I am glad to see that the action plan promises a national health adviser to work with healthcare professionals and raise awareness of LGBT issues.

How will this role be resourced and what powers will be given to the national health adviser towards making progress on health inequalities faced by LGBT people?

The national LGBT survey referenced Stonewall’s findings that more than 25% of trans respondents who were in a relationship in the past year had been subject to domestic abuse. What are the Government doing specifically to support trans people experiencing such abuse? I say again that we welcome the plan, and we look forward to working with the Minister to make sure that all the recommendations are implemented.

Baroness Williams of Trafford: I thank the noble Baroness for her questions. When I first started in my role as Equalities Minister, I did not believe that conversion therapy existed. I thought that the like of what happened to people like Alan Turing was gone, only to find that it still exists. One upshot of the survey is to highlight that it does exist. It exists not just in some of the settings where we think it exists but in all sorts of settings which affect all government departments. In terms of how exactly we are going to end it, we have deliberately not been specific, because it will require a series of both legislative measures and non-legislative measures. The proposals will be outlined in due course.

The national adviser will explore the areas where health inequalities exist for LGBT people in our society and will advise the Government and other providers on those inequalities. In terms of money, we have put in £4.5 million to help us deliver the action plan. On trans abuse, the noble Baroness is absolutely right—trans people appear to be the most unhappy of our LGBT friends in society and to face the worst abuse. This abuse is not just from people in the street; it might be from inappropriate healthcare, in school settings, or in the workplace. We are well aware of trans abuse, and many of these things have been at the forefront of our minds with the refreshed hate action plan, which we will be publishing soon.

Baroness Barker (LD): My Lords, I very much welcome this piece of work. I had a chance this morning only to skim the surface of it, but it represents a huge amount of research, and I hope the Government will make that research available to academics and other researchers as quickly as possible, as it is immensely valuable. I will ask the Minister two simple questions. Regarding the NHS post, in discussions with other people this morning when we got the report, the general consensus was that having one person try to represent the whole community would be rather difficult. However, the key issue is the training, knowledge and understanding of staff in the NHS. Who within the NHS will have responsibility for overseeing the change envisaged in this report, which is very badly needed?

Secondly, on conversion therapy, what plans do the Government have to engage faith groups in the work they are planning to undertake? Faith groups are often where these practices are found.

Finally, on inclusive sex and relationship education, I know that the Government are keen for this to come about as it is the key to so many of the issues that have been highlighted. Can the Minister tell us when the Government are likely to bring forward proposals?

Baroness Williams of Trafford: I thank the noble Baroness for those questions and I was pleased to see her at the launch event this morning. She is absolutely right that out of this huge survey—the biggest in the world ever, I believe—there is loads to be gleaned through the analysis we can do, and I think that we have probably only just begun that process. But it must not be just a survey that is done and put on a shelf, and I am absolutely certain that it will not be. I am sure there are stakeholders all over the world who will be interested in our survey findings.

On the national adviser who will oversee the change in the NHS, I suspect—though those proposals have probably not yet been worked through definitively—it will be somebody who can see at a strategic level just where those gaps lie, given some of the feedback they will get from LGBT patients and users of the health service. I do not necessarily think a clinician will be needed, but someone who can take a strategic look at how the NHS operates and propose changes and provide advice to practices.

The noble Baroness is right to bring up conversion therapy and faith groups. Interestingly, however, it is not just faith groups who use it—I was shocked to learn that. In all this, there is a balance to be had. I strongly believe we should respect people's right to practise their faith. Similarly, they should respect people's right to live the authentic life they wish they lead. As I said, there is a balance to be struck, and there is an engagement to be had across the various sectors, including faith groups, and that is how we intend to proceed.

My right honourable friend Justine Greening announced that sex and relationships education would be made mandatory—I think from September, but I am not certain, so I shall leave a question mark there. If it is not September, I will write to the noble Baroness to let her know.

Lord Smith of Finsbury (Non-Affl): My Lords, I give a very warm welcome to the Statement from the noble Baroness regarding the survey that the Government have carried out and the action plan that will now be put in place. Embedded in it is the valuable recognition that far too much discrimination and hostility are still faced by LGBT people across the country. However, I urge the Government to take one further step, which is to ensure that full equality becomes available to LGBT people across the entirety of the United Kingdom, including in Northern Ireland.

Baroness Williams of Trafford: I thank the noble Lord. Clearly, we engage regularly with the devolved Administration but matters such as this are for that Administration. Looking at how far southern Ireland has moved towards equality just in the last couple of years, I have high hopes for our friends in the devolved Administration in Northern Ireland.

Lord Hayward (Con): My Lords, I echo the comments from the noble Lord, Lord Smith. We may think that there is equality in this nation and look at the progress we have made, but there is not equality. With the World Cup now taking place, it is significant that a professional footballer has yet to come out and identify as gay, unlike the position in rugby and other sports.

Baroness Williams of Trafford: It is always quite mystifying to me that rugby has been so open, inclusive and supportive of rugby players who have come out, mainly, as gay and that football has not. In fact, football seems to remain a hostile sport for LGBT people, and I hope that that will change soon.

Official Statistics Order 2018

Motion to Approve

3.52 pm

Moved by Lord Young of Cookham

That the draft Order laid before the House on 21 May be approved.

Lord Young of Cookham (Con): My Lords, the purpose of this draft instrument is to update the list of non-Crown organisations that produce official statistics, as defined in the Statistics and Registration Service Act 2007 and within the scope of the Code of Practice for Statistics. Statistics are part of the lifeblood of democratic debate. They are a foundation of society, supporting the decisions we make. The Code of Practice for Statistics plays an essential role in ensuring that statistics published by government command public confidence through demonstrating trustworthiness and providing high-quality data that enhances public value.

The draft Official Statistics Order 2018 will revoke and replace the Official Statistics Order 2013, updating the list of UK non-Crown bodies that may produce official statistics and whose statistical activities will be monitored, scrutinised and reported on by the authority.

The Statistics and Registration Service Act 2007 established the Statistics Board, the non-ministerial department known as the UK Statistics Authority, as an independent statutory body to promote and safeguard the production and publication of official statistics that serve the public good. Under the Act, official statistics are those produced by Crown bodies, such as government departments, as well as non-Crown statistics specified by an official statistics order.

The authority will work with bodies designated as producers of official statistics to promote good practice, and will monitor and report on the production and publication of official statistics. The authority will also assess the treatment by producers of official statistics against the Code of Practice for Statistics and publish the results of these assessments. If statistics comply with the code, the authority will designate them as “national statistics”.

There have been four previous UK orders, in 2008, 2009, 2010 and 2013. Updating the orders regularly ensures that the scope of official statistics remains accurate and relevant in light of the establishment, abolition and name changes of public bodies. There have been equivalent Welsh orders in 2013 and 2017, Scotland orders in 2008 and 2010, and Northern Ireland in 2012. The Scottish Government are in the process of updating their own order, expected to be completed later this year. Northern Ireland began the process of updating its own order, but this process is currently stalled, pending resumption of the Northern Ireland Executive.

[LORD YOUNG OF COOKHAM]

I am sure that noble Lords will agree that it is important to designate these bodies as producers of official statistics to bring them within the scope of the Code of Practice for Statistics. The code is consistent with the UN's Fundamental Principles of Official Statistics, which were adopted by the UN General Assembly in 2014, emphasising the high recognition at a global political level and the importance of good statistics for decision-making in democratic society. Compliance with the code of practice provides assurance that the statistics produced are trustworthy, of high quality and of public value.

This statutory instrument makes a small number of sensible changes to reflect changes to non-Crown bodies since 2013. It is important to note that although the order covers a wide range of bodies, the vast majority of bodies were already designated under the previous order, so this order represents a relatively minor adjustment. The statutory instrument adds four new bodies to the list contained in the 2013 order. These are Monitor, the National Health Service Trust Development Authority, the Office for Students and the Service Complaints Ombudsman. Monitor and the National Health Service Trust Development Authority are the main organisations that make up NHS Improvement. The instrument also alters the name of one body contained in the 2013 order, following a legal change to the body's name. The Rail Passengers' Council was renamed the Passengers' Council by order in 2010. The instrument removes no bodies from the existing list. The UK Statistics Authority has been consulted in preparing this order, in accordance with the Statistics and Registration Service Act, and is content for it to be laid.

In summary, the order updates the list of bodies that are subject to the UK Statistics Authority's oversight. Those bodies listed on the order will be expected to work to the Code of Practice for Statistics, and their statistics will have the potential to be nominated for formal assessment by the authority to be national statistics. This House agreeing the order is a vital part of maintaining public confidence in official and national statistics and the integrity of the official statistics system. I beg to move.

Baroness Hayter of Kentish Town (Lab): My Lords, I thank the Minister for such a clear explanation, even if he did not manage to make it sound zippy or a lot of fun. It is an important and non-contentious draft order to which we are happy to give our support. Indeed, we welcome the additions to the schedule of organisations providing official statistics; the more, the better, and especially the better-monitored statistics we have, the better for all of us—the public, the press and politicians—so that we can judge the performance of the Government.

The system that has evolved in this country, particularly the requirement that has been mentioned to abide by a code, in how statistics are kept and how and when they are published, is one that we applaud. As mentioned, the UK Statistics Authority, an independent authority, has the statutory objective of promoting and safeguarding the production and the publication of official statistics.

That is a key part of the system although of course it depends on all of the organisations on that schedule and particularly the Government abiding by the code.

The Minister described UKSA's objective of serving the public good so as to mobilise the power of data to improve decision-making. That accountability includes:

“Informing the public about social and environmental matters, assisting in the development and evaluation of public policy”,

and,

“regulating quality and publicly challenging the misuse of statistics”.

This latter task of monitoring, and in particular when necessary challenging, the use of statistics is particularly important when we see the Government sometimes being a little too free and easy over their handling of data.

4 pm

In February, the chair of the UK Statistics Authority, Sir David Norgrove, found that the comparison made by Mrs May during PMQs between waiting times figures for accident and emergency between England and Wales was not valid, leading to the Prime Minister having to correct the *Hansard* record. However, she is not alone in being found wanting in her use of statistics. Sir David also had to write to the Foreign Secretary expressing his surprise and disappointment that Mr Johnson continued to repeat the infamous £350 million figure which confuses gross and net contributions. In his words, Sir David judged this, rather seriously I thought, to be,

“a clear misuse of official statistics”.

It is not just the Prime Minister and the Foreign Secretary who have transgressed. The then Home Secretary received one of these letters over the disclosure of Home Office migration statistics to members of the media ahead of their official publication. Not only was the main leak made to the *Daily Telegraph*, but whoever briefed the journalist only half understood the data or inadequately communicated it, thus seriously misleading the public. Mind you, even a more accurate leak would still have been misleading because it was partial and lacking in context. As Sir David wrote, the leak was,

“more damaging in view of the sensitivity of migration data”.

I have cited these examples obviously not to chide the Government but to champion the system. It has an independent scrutineer and a voice to challenge the misuse of data in its collection and interpretation, as well as in its publication by any of the bodies set out in the schedule, including from now the four new ones. I wish those four new bodies well in maintaining the high standards that we expect from any public body, but I hope that they never have to receive one of those letters from Sir David. We hope that the order is duly agreed.

Lord Wallace of Saltaire (LD): My Lords, I too welcome this statutory instrument. We now have a good and robust system of gathering national statistics and it is excellent that this degree of independence has been established and is being maintained. We all know, particularly in the debates on Brexit, that statistics are thrown about and are interpreted and misinterpreted. Given that, having an independent authority which does its best to hold those together is highly desirable.

When I read first the *Times* and then the *Daily Mail* on the latest economic statistics and I am given entirely opposite interpretations of what is happening in the economy, I realise that it is impossible to reach a completely mutual understanding of the statistics, but at least this gives us a baseline that we must do our utmost to maintain.

I have to admit that when I looked at the full list, I was puzzled by it. The Explanatory Notes explain that some bodies are charities, others are regulatory bodies, while some are agencies of government departments. Some consumer bodies are included but I am aware that other such organisations are not. One research council is on the list, but not others, as is the case with some regulatory bodies. Perhaps the Minister can write to explain the rationale for inclusion on this list and why it is that some bodies appear on it while others do not. Is it because some have higher standards than others and that the standards of the latter bodies have not yet reached this level, or whether there is a different set of criteria because other government regulatory bodies such as Ofwat and Ofcom do not appear on it. That may reflect my limited understanding of the area, but having said that, of course we welcome the order as a way of reinforcing the independence and authority of our statistical system.

Lord Young of Cookham: My Lords, I am grateful to the noble Baroness, Lady Hayter, and the noble Lord, Lord Wallace of Saltaire, for the interest they have taken in this instrument, the time they have spent scrutinising it and for their support. I apologise for my opening speech not being zippy. It would have been a real challenge to make this issue something that will appear on “Yesterday in Parliament”.

The noble Baroness, Lady Hayter, produced examples. I am sure that if I wanted to I could have gone back a little further to show that previous Administrations may have made similar mistakes. The important point that she made is that the system is working, all the correspondence is in the public domain for everyone to see and the Government are rightly held to account by an independent body.

The noble Lord, Lord Wallace, asked about the basis. Part of the answer to that lies in paragraph 7.3 of the Explanatory Memorandum:

“Bodies included in the list are those which produce, or will produce, national-level statistics which (a) inform the public about the social or economic position of the country, (b) are likely to be used to judge government performance or targets or (c) the government considers it is otherwise important that the public has particular trust in”.

I gratefully accept his suggestion that I write to him in more detail about the specific issues he raised. I commend the order to the House.

Motion agreed.

Social Workers Regulations 2018

Motion to Approve

4.06 pm

Moved by Lord Agnew of Oulton

That the draft Regulations laid before the House on 4 June be approved.

The Parliamentary Under-Secretary of State, Department for Education (Lord Agnew of Oulton) (Con): My Lords, as noble Lords will be aware, the social work profession is a relatively young one; it became a regulated profession only in 2001. But it has come a long way in a short time, with over 95,000 registered social workers in England supporting vulnerable children, adults and their families every day. At its heart, social work is a profession that promotes social change and individual and collective wellbeing, and challenges social injustice.

Many noble Lords will also know that a number of high-profile incidents have seen the social work profession face greater scrutiny and challenge over the quality and capability of the workforce. The 2014 reviews by Sir Martin Narey and David Croisdale-Appleby found that too often social workers are poorly trained and not ready for front-line practice. This Government have responded to these concerns with a comprehensive social work reform agenda. We are committed to promoting a strong, consistently effective social work profession that is well trained, competent and properly supported to transform the lives of the most vulnerable.

Establishing Social Work England as the new, single-profession regulator for social workers in England is vital in achieving our ambition. Like the other health and social care regulators, Social Work England’s primary focus will be public protection, but our aim is also to enable Social Work England to operate streamlined, proportionate and efficient systems. We want a regulator that can adapt to emerging opportunities, challenges and best practice in social work. Providing for a specialist regulator that sets profession-specific standards will ensure that regulation reflects the changing reality of delivering social work practice safely and effectively.

The regulations were made under powers in the Children and Social Work Act 2017. I express my gratitude to those in this House who played such a vital role in shaping and agreeing that Act. Debating these draft regulations signals another significant step towards establishing Social Work England. Noble Lords will know that we have already made great strides in this respect. In March we appointed the noble Lord, Lord Patel of Bradford, as chair of Social Work England. In June we announced that Colum Conway has been appointed as chief executive. These appointments bring significant experience in social work practice, education and regulation and have been welcomed by the sector. The momentum continues with recruitment for other senior posts and non-executive board members.

We have been helped in getting to this point by a number of stakeholders. In December 2016 we established the Social Work England Advisory Group, which has representation from sector organisations, social workers, employers and service users. We then established the Regulatory Expert Group in October 2017, which brings together experts from the world of professional regulation to shape and challenge our thinking. These groups have been invaluable in advising us on this complex task.

We consulted on the regulatory framework for Social Work England during February and March. We received nearly 200 responses, overwhelmingly in favour of our proposals. Some 43 responses were from sector and regulatory organisations. We also held 11 events consulting

[LORD AGNEW OF OULTON]

directly with social workers, education providers and interested parliamentarians. I very much welcome these contributions. The valuable points raised have helped to shape the draft regulations we are discussing today. I also acknowledge the significant input from the social work sector, other professional regulators and Members of this House in developing the regulatory framework.

I have spoken about the importance of creating a modern regulatory framework for Social Work England. It is important to emphasise that these draft regulations draw on a range of evidence and recommendations. These include the Law Commission's review of health and social care professional regulation, the Professional Standards Authority's *Right-touch Reform* report and the Government's own reform proposals for healthcare professional regulation. There are a number of provisions which, in particular, demonstrate our use of the very best evidence to enable efficient regulation. I will take a moment to outline them.

The first is registration. An accurate, transparent register is crucial for effective regulation. We consulted on a range of provisions. These included powers to register social workers with conditions, introducing English language controls and annotating sanctions, and additional qualifications, specialisms or accreditations. Attaching conditions to registration is linked to the individual's ability to meet eligibility criteria for registration. This provision might be used effectively, for example, where a social worker has a time-limited health condition. Attaching conditions would allow continued registration while recognising that the individual may not meet standards of health for a period of time. We are confident that this will enable the regulator to adopt a proportionate response to concerns and maximise retention in the workforce, while protecting service users.

We have also provided for Social Work England to annotate additional qualifications and specialisms on the register. Recording post-qualification information will provide more transparent and meaningful information on the breadth and depth of social workers' skills levels to employers and the public. It will allow for the annotation of the established approved mental health professionals and best interests assessors roles. It will create, for the first time, a national list of those qualified to carry out these roles. Better data on the scope of practice can also be used to support practice improvements and targeted regulation.

Current fitness to practise outcomes will also be recorded on the register. This is critical for public protection. Following the Law Commission's recommendation, Social Work England will also be able to annotate expired sanctions for specified periods. The regulations are clear that this power must be used proportionately, ensuring public protection while not unduly penalising registrants. Social Work England, in line with some of the other health and social care regulators, will also introduce proportionate English language controls as a registration requirement. We believe that proficiency in written and spoken English is fundamental to safely and effectively engaging with service users.

Next is education and training. We are confident that Social Work England will make a significant impact in the area of training and education. It will set new profession-specific standards and approve initial education and training courses and qualifications for social workers. Maintaining the quality of professional education ensures that students meet the necessary standards for registration and public protection. This is crucial to initial education and to post-qualifying courses. Importantly, Social Work England will be required to reappraise courses over time and determine its own role in the post-qualification space. The regulations make provision for Social Work England to approve post-qualifying courses through approval processes set in regulations and rules.

I turn now to fitness to practise. An effective fitness to practise system is also critically important, both for public protection and public confidence in social work as a regulated profession. As the Professional Standards Authority has pointed out, existing fitness to practise systems can be expensive and overly adversarial. We have taken account of this and of the Law Commission's proposals for reform in designing a more flexible fitness to practise system for Social Work England.

The system ensures that the functions of investigation and adjudication remain separate. It provides the regulator with new tools to deliver public protection more flexibly. This includes streamlined approaches such as automatic removal from the register. Automatic removal will be used only where registrants are convicted of very serious criminal offences such as rape or murder. There will be swifter processes where registrants have been convicted of criminal offences, with custodial sentences.

4.15 pm

Social Work England will also be able to resolve cases without a hearing where the registrant accepts the facts of the case and the outcome proposed by the regulator. The regulations make it clear that this can be used only where it is in the public interest. The Professional Standards Authority has been clear that it wants oversight of such cases. I am pleased to confirm that this will be provided as soon as a legislative vehicle can be found to amend the PSA's primary legislation. We will also explore extending such oversight to other regulators operating similar systems of accepted outcomes or consensual disposal.

I want to provide reassurance about the role of the Secretary of State in relation to Social Work England. Noble Lords will know that Social Work England is a separate legal entity in the form of a non-departmental public body. It will operate at arm's length from government. The Privy Council has no role in relation to Social Work England, so the Secretary of State will necessarily have a role. This will be in two specific areas: first, oversight of regulatory rules and, secondly, powers in the event of default by the regulator in the performance of its functions.

We have provided Social Work England with flexibility in relation to how it makes rules. Rules will set out the detailed procedures and requirements for how its functions will be carried out. This will allow Social Work England to change its operational processes efficiently. Rules

will be subject to public consultation and oversight by the Secretary of State. The regulations provide for a 28-day review period for the Secretary of State. The rules come into force automatically if no objection is raised, or earlier if the Secretary of State agrees. Social Work England is also able to specify a later date to provide maximum implementation flexibility. The Secretary of State may also draw on independent advice from the Professional Standards Authority.

Default powers ensure that the Secretary of State can intervene in cases of regulatory failure. This includes giving remedial directions and taking over functions where the regulator fails to comply with a remedial direction. The regulations clarify the role of the Secretary of State, established under the Children and Social Work Act, in this area. They provide that the Secretary of State, or a person appointed by them, cannot make a decision,

“to make, amend, remove or restore an entry in the register”.

This addresses any potential for political interference in decisions about the registration of an individual social worker.

Social Work England will operate on a day-to-day basis independently of government. The oversight role of the PSA and the use of default powers only in the most serious circumstance of actual or likely failure to perform regulatory functions ensures this continued independence.

Public protection is at the heart of everything that Social Work England will do. We believe that our approach to developing a modern regulatory framework will ensure public confidence in the profession. It is crucial that those registered as social workers in England can be trusted, are highly skilled and remain safe and effective in their practice.

Subject to the successful passage of these regulations, we anticipate that Social Work England will become the regulator of social work in England in 2019. I am extremely grateful to the very wide range of people, including Members of this House, who have helped to move us towards this important stage in our ambition to establish a new specialist social work regulator. I beg to move.

Lord Watson of Invergowrie (Lab): My Lords, I thank the Minister for introducing these important regulations. As he mentioned, they stem from the Children and Social Work Act, but he may not be aware, because at the time he was not a Member of your Lordships’ House, that there was considerable resistance from Peers on all sides of the House to the concept of introducing a new regulator separate from the Health and Care Professions Council. Ultimately, although the retention of the social work profession within the HCPC could not be achieved, as a result of pressure by Opposition and Cross-Bench Peers, it was agreed that Social Work England would be a non-departmental public body—as the Minister just stated, a separate legal entity operating at arm’s length from government.

The appointments of the chief executive of Social Work England and of the noble Lord, Lord Patel of Bradford, who I am very pleased to see in his place, as chair of Social Work England is a definite plus as both

of them have practised as social workers. It will be of some consolation to social workers who often feel rather embattled despite the great work that they do. It is certainly encouraging that the chair is already out and about talking to those whose confidence he will need to build. It is not yet known who will comprise the board of the new body, but hopefully there will be a reasonable presence of social workers and service users to bring practical experience to the shaping of board decisions.

These regulations are generally non-contentious, and we share the view of the British Association of Social Workers, which is committed to the need for statutory regulation of social workers and social work for public protection and accountability, and to ensuring that the value and importance of the profession is recognised and that high standards are maintained.

During the debates on the Children and Social Work Bill, noble Lords on these Benches argued for effective regulation and an independent regulator. As I have said, to some extent that was achieved, although reintroducing the control of the Secretary of State causes us continuing concerns, particularly in respect of Section 3(4), which effectively provides that if the Secretary of State objects to the rules coming into force, the regulator must modify them in light of the objection. We reiterate the need for the regulator to have maximum independence from the Secretary of State, yet here the control of the Secretary of State over the regulator seems to have been reintroduced through the back door. The Minister may well say that that is not the intention, and he may well be accurate in that assertion, but it leaves open that possibility further down the line when all of us have gone on to pursue other interests.

On the new regulator’s sole control of continuous professional development, we also share the concerns of the British Association of Social Workers that there is apparently no requirement to consult or involve the more than 80 universities which deliver social work pre-qualification and post-qualification education and training. Nor will consultation involve employers, service-user groups or the professional association for social workers. Perhaps the Minister can explain why all that expertise should remain untapped.

When these regulations were considered in another place yesterday, my Front-Bench colleague Tracy Brabin MP, standing in for the shadow Minister for Children and Families, Emma Lewell-Buck MP, who was indisposed, asked the Parliamentary Under-Secretary of State for Children and Families a total of 16 questions. As far as I can ascertain from reading the Minister’s reply in today’s *Hansard*, no more than one of her questions received an answer. So I shall reiterate those points and request that the Minister arrange to write to me in respect of any that he is unable to answer today.

The regulations lack detail, which makes it difficult to scrutinise some aspects of them effectively. The new regulator is required to make at least 90 rules and there could be extensive debate on the most appropriate rule in each case. Can the Minister tell noble Lords the proposed timescale for framing those new rules? He said that he expects Social Work England to come

[LORD WATSON OF INVERGOWRIE]

fully into being in 2019, but that is a pretty wide timescale. Regulation 3(2)(a) states that the regulator needs to carry out a public consultation before making the rules. That is certainly to be welcomed, but it carries a get-out clause, stating that the regulator does not have to carry out a consultation if it,

“considers that the content of the proposed rules is such that it would be inappropriate or disproportionate to do so”.

That sounds entirely subjective, leaving it open to whim at best, or misuse at worst.

A majority of respondents to the Government’s consultation thought that oversight should apply to all the rules. So can the Minister say which of the 90 rules he anticipates the loophole being applied to, and what reassurances can he offer to support the view I am sure he will take that the loophole will not be misused by the regulator? He talked of regulatory failure a few moments ago. I am certain that would be a very rare occurrence, but it would be helpful to have the Minister’s indication of the situations in which it might arise.

Turning to part 2 of the regulations, we also seek clarification on how the representatives referenced in Regulation 3(2)(b) will be chosen. It states that the regulator will choose,

“any group of persons who the regulator considers are likely to be affected by the proposed rules”.

Although the inclusion of social workers is welcome, together with employers of social workers, users of the services of registered social workers and those involved in social work training, we have concerns as to how those individuals will be chosen. Those rules will affect social workers across the UK, so what is the process by which those individuals will be chosen? Will there, for instance, be representations from all the nations and regions? How will the numbers be distributed among various job roles?

We welcome the fact that the Government bowed to pressure and abandoned the idea of making Social Work England an executive agency of the Department for Education, but questions remain about the Secretary of State’s role because control seems to have been reintroduced. Under Regulation 3(4)(b) the Secretary of State has the power to object to rules. It is disappointing that the Secretary of State will be given the final say on all the rules despite the efforts of many in your Lordships’ House to ensure that the regulator is, as far as possible, independent.

In Part 3 of the regulations, on the content of the register of social workers, Regulation 9(3) states:

“The regulator may record any other information in the register it considers appropriate”.

Given that the basic necessary details about social workers will already have been collected, what other information is likely to be necessary?

We also share the concerns of the British Association of Social Workers that there is provision for deregistration on health conditions, which are undefined. Because the regulations are not specific enough, it is not difficult to envisage that provision being misused. In paragraph 7 of the Explanatory Notes, the Secretary of State states

that he believes the regulations are compatible with the European Convention on Human Rights, but will the Minister say if either he or the Secretary of State have considered whether Regulation 9(3) is compliant with the Equality Act 2010? What protections can the Minister point to against possible misuse?

With others in the sector, I am pleased that Regulation 20 makes provision for sector-wide professional development. As the Minister himself conceded, there is a need for the transitional arrangements to be put in place to protect both social workers and the public whom they serve. The trade union Unison has a plan for the transition from the Health and Care Professions Council to Social Work England, outlining how a service-level agreement between the HCPC and Social Work England would ensure a smooth transition period in which the HCPC retained responsibility for fitness-to-practise cases for an interim period of two to five years. That would give Social Work England time to establish its own fitness-to-practise process, while allowing for meaningful consultation with trade unions and staff in both organisations to draw up a structured plan to ensure the smoothest possible transition. Pointing to the apparent lack of any such arrangements is not a criticism of Social Work England, but we believe they would provide a safety net for all—most importantly, for the public. Do Ministers plan to consult Unison and take advantage of its experience regarding the transition period? Crucially, what assurances can the Minister give that social workers, employers and the public will be protected in the interim period?

In general, our initial opposition to it notwithstanding, Labour is now in a position to say that we welcome Social Work England coming into being and want it to be as successful as it possibly can. Apart from the relatively minor issues that I have highlighted, we do not have a problem with the majority of the rules that Social Work England is creating. However, like many in the sector, we have concerns that its timescale is overambitious, given that, although the chair and chief executive are in post, the board and executive team are not. Even allowing for the good will that is behind the creation of Social Work England, what confidence can the Minister offer noble Lords that it can be successfully established within such a short timescale?

Baroness Tyler of Enfield (LD): My Lords, I too thank the Minister for introducing the regulations. I draw noble Lords’ attention to my interests in the register, particularly my role until recently as chair of CAFCASS.

I strongly support the creation of Social Work England as a profession-specific regulator with real in-depth understanding of social work and its potential to transform lives, particularly those of the most vulnerable. I very much hope that Social Work England will be able to work as an effective, modern and collaborative regulator, working closely with social work employers, educators and, yes, service users as well, which is important. Statutory regulation of social workers is very important. It is necessary so that the public feel protected. It helps to enhance the status of the profession, to ensure high standards and to ensure

that the work that social workers do is truly valued in a way that, I am afraid, too often it is not at the moment.

The devil, as ever, is in the detail, so I want to make a couple of general points and a couple of specific ones. I am aware from talking to colleagues in the sector that a number of concerns have been raised during the consultation process. It must be said that it was not a particularly long consultation, but I know that there were pre-consultation events as well. I want to highlight something that the noble Lord, Lord Watson, mentioned: the role of the Secretary of State. As I am sure that noble Lords who took part in our debates during the passage of the Children and Social Work Act 2017 will remember, they were heated and important debates about what was an appropriate role for the Secretary of State in social work regulation. As has already been alluded to, the upshot of that was the creation of a body separate from government so that the regulator had an appropriate degree of independence from the Secretary of State.

4.30 pm

I turn to the drafting of the regulations. As the noble Lord, Lord Watson, said, concerns have been raised about the way the role of the Secretary of State is described in both Regulation 3, about rule-making, and Regulation 7, on powers of intervention. I had a quick look to see whether I could understand the concerns. In particular, I looked at the wording on, where the Secretary of State objects to the rules coming into force, what the regulator must do to modify them in the light of those objections. Although, in some senses, I can understand why it has been drafted as it has, I feel that a few tweaks here and a few different words there and a slightly more inclusive tone could have allayed a lot of the concerns being expressed at the moment. Of course, the Secretary of State must be able to do certain things, particularly if, for whatever reason, the regulator is not undertaking its required functions. Can the Minister assure us that these points are being discussed and understood, and that there is a strong will for the regulator to be seen as independent and to have a good and constructive relationship not only with the Secretary of State but the sector as a whole?

I have a couple of more specific points. I already mentioned my role as chair of CAFCASS. I stepped down in March at the end of my six-year tenure there, but I have been talking to colleagues about how the regulations will impact on the children's social work sector. Again, there is broad support for the regulations in the sector, but concern has been expressed to me, particularly by staff who are carrying out more specialist roles. CAFCASS employs 1,400 social work staff—the largest employer of children's social workers in the country. There are also local authority independent reviewing officers. I know that they feel that some of the wording produced so far in the regulations—I am sure we will have guidance as well—does not sufficiently comprehend the specific roles that they undertake, which are rather different to a front-line local authority children's social worker.

Will more thought be given as the regulations are implemented and guidance produced to ensure that some of the more specialist roles in the social work

world are properly represented and understood? That would help to increase support for the regulations across the sector.

Finally, it will be important to consider how the regulations will be implemented, particularly in social work education and training. They must be seen to support various initiatives which have come into being in the past year or two, to take up some of the challenges identified by Sir Martin Narey, David Croisdale-Appleby and others, which have been mentioned, about social work training, particularly the need to grow the pool of on-the-job training places. We now have various programmes—Think Ahead, to train mental health social workers, is one—trying to address the severe shortages that we have in some areas. It is very important that the implementation supports such measures. It will also be important to ensure a smooth handover from the HCPC for courses that it has already approved, to minimise the burden on any pre-approved courses. I look forward to hearing the Minister's responses on those points.

Lord Agnew of Oulton: My Lords, I am most grateful to noble Lords for their comments and questions on the regulations. The noble Lord, Lord Watson, is right that he does have something of an advantage over me here on a subject that he has spent a lot more time on than I have. I shall certainly try to answer as many of noble Lords' questions as I can. On those that I am not able to answer, I shall write.

I reassure noble Lords that the procedure for making regulatory rules is intended to provide more flexibility for Social Work England, rather than act as a means of giving the Secretary of State control. As noble Lords will be aware, the rules for the other nine existing health and social care regulators need to be approved by the means of a lengthy Privy Council process. If the Privy Council chooses not to approve rules, the regulators need to make changes to address any concerns before starting the process again. For Social Work England, we have provided a more streamlined procedure, drawing on the findings of the Law Commission's 2014 review while still providing clear and robust oversight. This allows, importantly, oversight that is enforced by advice by the Professional Standards Authority as needed, while not unduly hampering the regulator's ability to make rules following consultation and to plan effectively for their implementation.

Of course, for any oversight procedures to be effective, there needs to be an element of veto. That is what has been provided for in the draft regulations. It might be used, for example, when consultation feedback has clearly not been taken on board in the final rules. Let me reassure noble Lords that the language of modification is not intended to allow for further control by the Secretary of State but will simply reflect reality. If rules are deemed not to be acceptable, they need to be revised. Although the language used is different, that is what would happen under the existing Privy Council system.

On noble Lords' concern about a possible loophole, it is important that Social Work England can change its procedures quickly and efficiently. We do not expect

[LORD AGNEW OF OULTON]

minor and technical provisions to be used often; when they are used, it would be where small technical changes were required to rules. This is not intended to be used in the case of substantive changes, where we would expect the full consultation and oversight procedure to apply. Of course, the Professional Standards Authority will also have oversight of the operation of Social Work England's functions and report on that annually to Parliament. I fully expect the PSA to highlight any inappropriate use of the provisions.

In establishing the legal framework we have taken the opportunity to provide a power to annotate additional qualifications and specialisms on the register, when that is proportionate to the regulator meeting the public protection objective. Annotation of additional qualifications and specialisms will ensure that the public register gives a transparent, informative record of social workers in England with specialist expertise, such as best-interest assessors and approved mental health practitioners. That will provide further assurance to the public and employers that individuals have the necessary specialist expertise relative to their particular role. Regulations will require Social Work England to set any additional qualifications or specialisms that are to be annotated in rules which are subject to public consultation.

On the transitional arrangements, the Government, Social Work England and the Health and Care Professions Council—the current regulator—are all committed to and working towards a smooth and safe transfer of regulations. As part of the transfer arrangements, ensuring that social workers are treated fairly will be of paramount importance.

I turn to the comments made by the noble Baroness, Lady Tyler, some of which were wrapped up in some of the points that the noble Lord, Lord Watson, made. He made two specific comments that I have noted. One is on the quality of the guidance that will sit alongside the regulations. I spoke to the noble Lord, Lord Patel, yesterday, and he impressed on me that, in his short time in tenure, he has been very anxious to reach out to important stakeholders. I have no doubt that he will continue to consult broadly the important stakeholders who will be affected by them.

Social Work England will be required to operate a scheme for the approval of courses of social work education and training in England, social work qualifications, tests of knowledge of English in England, and courses for those who wish to become approved mental health professionals. I suspect that this situation will evolve over time.

As all noble Lords here will know, I am one of the newest Members of this House. In closing, I add that the contribution made by this House shows it at its best in taking on board important reforms, bringing to bear the significant expertise that exists here, and helping to improve this vital mechanism.

Lord Patel of Bradford (Non-Aff): Clearly, I have avoided speaking on these regulations because I have a clear and obvious conflict of interest, so I do not wish to comment on the debate that has just happened. But, just before the Minister sits down, I take this

opportunity to reinforce what he said about the contribution that noble Lords in this House have made to the establishment of Social Work England. I have found them particularly helpful over the last few months. I have engaged with and received wise wisdom from many of them, and continue to do so.

I put my thanks on record to the several hundred people I have spoken to, from service users to higher education providers, and from the social work profession to employers, who again have been very engaged in discussions. That certainly will continue.

There is one reason I wanted to speak today and this is probably rarely done. I have worked with lots of government departments and officials in a number of guises, NDPBs and other things. I have not come across a group of officials before that have been so passionate and so committed, and given so much time to developing the foundations for this organisation to go forward. I put on record my thanks to the officials from the Department for Education and the Department of Health and Social Care, because they have really worked hard. I have never seen such passion and commitment to making an organisation come together.

Lord Agnew of Oulton: My Lords, I thank the noble Lord for his comments. In closing this debate, I hope this provides reassurance to him: in seeking the chair of this new organisation, we have reached out across the political spectrum to get the very best person that we could for this important job.

These regulations provide a strong foundation for improved and effective regulation of social work in England, and I commend them to the House.

Motion agreed.

The Politics of Polling (Political Polling and Digital Media Committee Report)

Motion to Take Note

4.42 pm

Moved by Lord Lipsey

That this House takes note of the Report from the Select Committee on Political Polling and Digital Media *The politics of polling* (HL Paper 106).

Lord Lipsey (Non-Aff): My Lords, I understand that our debate this afternoon is not time limited, so it may give comfort to noble Lords if I assure them that I intend to resume my seat in time for anybody who wishes to catch the kick-off tonight.

It was a real pleasure and privilege to chair this committee. The self-congratulatory phrase “the House of Lords at its best” is grossly overused but I am going to use it once more, because I think if anyone attended our evidence sessions and the grillings that we gave to our witnesses, they would feel that sentiment was justified. We were wonderfully well served by our two clerks—Helena Peacock, until she left for the BBC, then Sarah Jones—and our peerless policy analyst Beth Hooper. We were also well guided by our specialist adviser, Patrick Sturgis, of the University of Southampton,

who has also served us subsequently by convening a conference of polling's good and great to discuss our report.

It was a pleasure to chair this group of people, but it was not easy. At the beginning, the committee members had a range of instincts, from one who was in favour of strict regulation of polling to one who thought that everything was fine and dandy as it was. They were, incidentally, both members of the same political party.

My confidence as chairman was not exactly boosted when, at the end of each of our sessions, the noble Baroness, Lady Jay, would mutter: "I can't see how we are ever going to get agreement on this". Little did she know that, as we entered the last stages of our drafting, I would be borne off to Guy's and St Thomas'. Thanks to them and the NHS, I am standing here this afternoon. That left her to persuade the committee that it would agree on something. I am very grateful for her efforts in that regard.

Most Select Committees of this House are about agreeing a set of recommendations to government for changes in policy and the law. Ours was, I think, slightly different. Three successive votes—the 2015 general election, the 2016 referendum and the 2017 general election—had produced results entirely contrary to what the polls had led people to expect. To misquote Oscar Wilde, to get one election wrong may be regarded as a misfortune, to get two wrong looks like carelessness, and to get three wrong suggests that something somewhere has gone horribly amiss. So our first and fundamental task was to assemble evidence on whether these were blips or might go on happening. Was polling no longer fit for purpose, serving only to mislead voters as to what they collectively thought?

The good news from polling's point of view is the research by Will Jennings of the University of Southampton, which we quote and shows that internationally there is not much evidence of a decline in polling accuracy over the years. Of course, that could mean that it has not got worse but it could also mean that it was always pretty bad and continues to be bad. That is a matter of opinion. However, these three successive setbacks will have pollsters on tenterhooks about the results they will achieve in the 2022 general election. Even if they get it right, it must be said that, as happened in 2010, they sometimes get it right because their errors cancel each other out.

There is good reason to be cautious in trusting the polls. First, polling is, by common consent, getting more difficult. Our report highlights two main reasons. One is non-response rates. A pollster might approach upwards of 10 people to get one who is prepared to join in and answer the questions, whereas far fewer used to be required. That creates a bias towards those interested in politics, who are much more likely to say yes than someone who knows nothing about it.

The other reason is the decline of social class as an indicator of voting intention. Once upon a time, as long as pollsters got the right proportions of working and middle-class people, they were all right. All the middle-class people voted Tory, all the working-class people voted Labour and pollsters would get the result right. That is not the situation today. Today, Labour

gets more middle-class votes than working-class votes. No doubt that makes it much more difficult for pollsters to know whether their samples are right.

Beyond that, there is the separate question of the margin of error. Strictly speaking, there is no scientific way of measuring the margin of error for non-random polls, which all pollsters use today, except one or two state-backed pollsters. Since we reported, however, the British Polling Council has put the margin of error at 4%, based on past poll errors. Let us be clear about what this means: it is not a measure of the margin of error in the total lead of a party. It does not mean the Tories are on 42% and Labour is on 38% within the margin. It is the measure of the error in each party's share. Say you have a poll that tells you Labour and the Tories are both on 40%. Within the margin of error, that could mean that Labour is on 44% and the Tories are on 36%, or it could mean that the Tories are on 44% and Labour on 36%. If you see a 40:40 poll, is your immediate assumption that either party could be well in the lead or that they are level-pegging? Not many people realise the margin of error—certainly not the hedge funds, which apparently pay huge sums for sophisticated polling that still gives them no more insight into the true state of the parties than anyone else.

The polls, therefore, are not very accurate. What if, via the commentators, the public believe what they say? Will that affect election results? Did Labour lose in 2015 because voters believed Britain was headed for what the Tories called a coalition of chaos? On what basis? On the basis of the polls. Did Jeremy Corbyn do so well in 2017 because the polls meant that no one thought that he had a chance in hell of winning?

We discuss the evidence in our report, and it is mixed. However, we do not recommend a ban on polling in the run-up to elections, such as is in place in 16 of the 28 EU countries. Nor do we recommend the statutory regulation of polls. We were not for a ban on polls largely because we thought that polls would be done anyway, probably overseas. Badly reported offshore polls would be even worse than well-reported onshore ones. We were not for state regulation because we felt it might inhibit innovation in polling; and because we did not think it would work. The example of the Commission des Sondages in France was not encouraging. However, if they get it wrong again in 2022, the question of banning or regulating will be revisited, and probably should be.

We made a more modest suggestion of a greater role for the Electoral Commission with regard to polling during elections. The Electoral Commission last week produced its own agenda for changes in its powers, and the Government are consulting on that—I hope in a more positive spirit than when they responded to this report. We did want increased regulation in the sense of increased self-regulation. When there is a choice, self-regulation is always better because it gets into the culture and changes how people behave, whereas regulation always seems imposed. We want the British Polling Council to take on new responsibilities, including holding a public inquiry into the performance of the polls after each election and providing an advisory service on poll questions.

[LORD LIPSEY]

We concluded that many of the problems with polls are down to media reporting of polls. There are some reporters and commentators who have a good grasp of what polling is about and its limitations. There are some who are less good. It is a perennial temptation in today's competitive news environment to distort and exaggerate. "May soars", when a poll shows a 1% increase in the Tory lead—well within the margin of error—makes a better story than "parties remain level pegging". In my many years of reporting polling, I would not guarantee that I had made no such distortion. The media is also prone to report, as if they were polls, surveys carried out by pressure groups which are neither representative nor random. We look to IPSO to strengthen its efforts to crack down on those who seek to mislead the public about what the polls are saying.

Finally, and briefly, I will refer to digital. This was included in the committee's remit, but the problems associated with it mushroomed during the committee's lifetime, and we were forced to conclude that we could not do proper justice to it. We asked the Liaison Committee to set up a Select Committee specifically on the digital side of our work; sadly, it has not yet agreed. Time heals many things. We commended the Government's digital charter and the work going on on it; and noted the work of the Commons Digital, Culture, Media and Sport Committee. I will just say this: if some of the fears that have been expressed about what is being done to our politics in the digital space are correct, the threat is surely graver than anything that arises from opinion polls misleading, as they may occasionally do.

I look forward to this debate. I trust that we have provided both a guide to those interested in where polling stands today—a reference volume of its strengths and weaknesses—and a road map of the direction in which it needs to go tomorrow if it is to retain any credibility within our democratic system. I commend our report to the House, and beg to move.

4.53 pm

Lord Norton of Louth (Con): My Lords, I welcome this report. It is well researched, informative and balanced. It draws out clearly the political weight attached to polls and the challenges to ensuring accuracy in reporting.

As the report recognises, there are problems with the actual polling methodology, the reporting of the polls, and the lack of critical interrogation of the polls by the public. As we have heard, there are pressures on the print media to report polls in sensational terms, which lead to distortions and a focus on politics as a race, rather than an informed reporting of substantive issues. Where policies are covered, the surveys may be interpreted in crude ways, either wilfully or out of ignorance. There is, as has been touched on, the added dimension nowadays of how polls are covered on social media. As the noble Lord, Lord Lipsey, mentioned, there are issues with digital media that go beyond the commission's remit and require addressing with some urgency.

I want to focus on the dimension of public understanding of polls. Improving methods of sampling and ensuring greater transparency in the methodology—

and, if necessary, sponsorship—are necessary but not sufficient to ensure greater public understanding of polls. As the polling organisations put it to the committee, "it is up to readers of all media to decide whether and what to believe".

In its coverage of digital media, the committee notes that some witnesses,

"suggested that better education to support improved digital literacy amongst the population could help to tackle some of the issues associated with social media".

That, in my view, applies also to polls and how to interpret them.

As the report shows, some media cover polls in a way that is wholly misleading, placing a weight on the data that they cannot bear. Readers may be too prone to accept the interpretation offered. This may affect behaviour. The committee recommends that the Department for Education ensures that critical literacy and digital skills are taught to people of all ages, including children and young people at schools and colleges, so that they can assess and analyse the information they read online. I think that the skills are needed not simply for what is read online, although I appreciate that, increasingly, information is accessed online. The key point for me is the need to enhance public understanding, not only to combat deliberate disinformation but to deal with poor coverage or ignorance in reporting. The problem at times is as much ignorance on the part of those disseminating material as it is wilful manipulation of data.

I therefore welcome the committee's report. It identifies well the problems and advances recommendations to tackle them. It engages with what is a serious issue in maintaining a healthy democracy. The Government in their response acknowledge the seriousness of online manipulation and outline some of the steps being taken, including internationally, to tackle the problem.

However, the response is in part disappointing. The Government are overly dismissive of the committee's recommendation that the Electoral Commission should have an enhanced role in monitoring voting intention polling. I am not necessarily advancing a greater role, at least not yet, but I recognise the committee's reasoning and I was not impressed by the Government's failure to engage with it. The response appears contradictory. The relevant paragraph opens by stating:

"The Government believes that regulation is a matter for the polling companies".

It ends by stating that,

"the Government's approach is to consider regulation as a last resort rather than the first option".

The opening sentence implies that it is not an option, be it first or last. Perhaps my noble friend Lord Ashton can clarify what precisely is the Government's stance in the event of self-regulation failing to achieve greater transparency.

However, my main concern is the weight that the Government attach to the citizenship curriculum in helping pupils to distinguish fact from fiction and to explore freedom of speech. To read the response, one would think that the opportunities mentioned are available and being utilised. There is nothing in the response that commits the Government to doing anything beyond what already exists. It neglects the fact that

there is what I regard as a crisis in citizenship education. How can the goals embraced by the Government be achieved through citizenship education when there are not the teachers available who are qualified to teach citizenship? In a recent Written Answer, my noble friend Lord Agnew of Oulton revealed that of the 4,800 teachers in secondary schools teaching citizenship in November 2016, it was estimated that fewer than 9% had a relevant post-A level qualification. Even if one includes those with a post-A level qualification in history, it remains the case that eight out of 10 teachers teaching citizenship have no post-A level qualifications in the subject.

Although citizenship is on the national curriculum, schools lack the incentives to take it seriously. Your Lordships' Select Committee on Citizenship and Civic Engagement provided a damning critique in its recent report, *The Ties that Bind: Citizenship and Civic Engagement in the 21st Century*, concluding:

"The Government has allowed citizenship education in England to degrade to a parlous state. The decline of the subject must be addressed in its totality as a matter of urgency".

The Government's response needs to be read in the light of that conclusion. There appears a mismatch between what is in the response and what is actually happening in our schools. Perhaps my noble friend the Minister will tell us what the Government plan to do to ensure that the teaching of citizenship meets the claims made for it in the response.

Citizenship education can fulfil an invaluable, indeed necessary, role in ensuring that we have a citizenry that understands our political system, including how to interrogate polls and look critically at information disseminated through social media. As the Select Committee on Citizenship and Civic Engagement noted:

"Citizenship education can also go some way toward mending the democratic inequality that exists in society".

James Weinberg of Sheffield University told the committee:

"We have evidence ... that citizenship education, where it is done effectively and consistently, can predict political efficacy, participation and levels of knowledge".

I reiterate my congratulations to the Select Committee under the noble Lord, Lord Lipsey, on producing this important report. I hope that my noble friend Lord Ashton will be able to go beyond the printed response to tell us what the Government are doing to ensure that the committee's concerns are met. The issues raised in this report are not simply technical points for polling nerds but issues crucial to the health of our political system.

5.02 pm

Baroness Jay of Paddington (Lab): My Lords, it was a privilege to be a member of such an interesting and thought-provoking committee. I give my thanks to the noble Lord, Lord Lipsey, not just for his excellent chairmanship but for his comprehensive and easy-to-follow description of our report's findings. I offer my personal warm thanks to the clerk, Sarah Jones, and her team. They gave me enormous support in the few weeks when I was locum chairman and the report was being written, during which the divisions the noble Lord referred to had certainly not gone away.

The noble Lord has well described the sense of crisis about polling which led to this committee being appointed but, at the end of its inquiry, my overall conclusion is that although the polling industry itself may well be facing serious problems, those problems in themselves do not constitute a major threat to our elections or to our democratic process. In other words, I suspect that political polls, particularly voter intention polls, play a much less influential role than many of us have believed. They are likely to be even less significant in future.

In my view there are much greater concerns about some aspects of how digital media affect politics. As your Lordships have heard, although we touched on these in our report we regrettably did not have time to explain them thoroughly. Our emphasis, as the noble Lords, Lord Lipsey and Lord Norton, have shown, was on what we should call mainstream polling. Here, the experts were admirably frank in their admissions of relative failure in the recent headline tests of two general elections and the EU referendum. There is no question but that the UK industry operates to the highest professional standards, but all our witnesses were clear that several factors are today making political polling much more difficult. The noble Lord, Lord Lipsey, has already mentioned a couple and they are worth repeating. There was general agreement that key challenges now include the increasing difficulty of persuading members of the public to take part, the decline in class-based voting and the volatility of the electorate's choices.

To me, one of the most important factors is the issue of differential turnout, which seems to have been the defining problem in recent experience. As Professor Sir John Curtice, president of the British Polling Council, told us:

"It is pretty clear from the experience of both 2000 and 2017 that estimating correctly who is and who is not going to turn out, particularly the differences in turnout between different demographic groups, is now one of the principal challenges facing the polling industry".

There seems to be no evidence that any one of these factors or challenges will lessen, let alone disappear, in the foreseeable future. From the polling industry's perspective, they will probably get worse. Therefore, we should expect that, realistically, national voter intention polls will continue to be uncertain guides to election outcomes, and political polling in general may not be an essential tool in the conduct of our politics. Does this matter? The fundamental question has always been: do polling results directly influence voters' decisions? Perhaps equally important is the question: do politicians change their actions and policies on the basis of polling results?

I was impressed by how little hard evidence there seems to be that polls persuade individual voters to change their behaviour, but politicians and political parties seem to have been much more susceptible. The noble Lord, Lord Kinnock, summarised this to us by saying:

"The existence of the polls themselves, producing the results that they do",

all the time, means that,

"the human beings who are leaders cannot be expected to ignore",

[BARONESS JAY OF PADDINGTON]

them. I am, after all, the daughter of a Prime Minister, James Callaghan, who apparently postponed a general election on the basis of a private poll. More recently, it is said that polling information affected Gordon Brown's decision not to hold a snap election in 2007.

History does not yet relate precisely whether the Conservative Party's apparently unassailable polling position crucially determined the timing of the 2017 election. But in future, perhaps Theresa May and her successors would be well advised to look at the evidence we took and study more carefully the serious difficulties pollsters acknowledge in sampling and predicting today's electoral behaviour. If I was now a frontline political adviser, I would hesitate a long time before deciding to hold any test of public opinion on the basis of polling—not, I emphasise, because statistical skills are in decline but because social and behavioural changes in the population have created unprecedented challenges in respect of accuracy.

Of course, the importance of the polls, as the noble Lord, Lord Lipsey, said, has often been exaggerated by the way they are reported by the media. Our report rightly includes a great deal of criticism of the headline approach to often complicated statistics and indeed the distortion of nuanced messages. We recommend that the British Polling Council should develop its work on informing journalists about the nature of proper polling and should try to educate editors and producers to translate such things as “margins of error” in less misleading ways. Personally, I am pretty sceptical about how successful such efforts may be. I think it much more likely that the mainstream media will, itself, reduce the prominence it gives to polls, particularly during elections.

My view was reinforced by our evidence from the BBC, ITV and Sky News, all of whom said they had moved away from highlighting polls in their coverage during the 2017 election campaign, while Deborah Mattinson, the founder of Britain Thinks, reported to us that,

“previous experience made a lot of newspapers feel that they had their fingers burned”,

and that,

“there will probably be fewer polls”,

in the future.

Perhaps the best summary of current attitudes was given to us by the Royal Statistical Society. It said that the 2015 election had created a considerable backlash against the polls from both the public and the media, which had been reinforced by the EU referendum and the 2017 election. It concluded that,

“there remains much debate about the usefulness of polls”.

If their usefulness is in doubt, if they have no great impact on individual voting decisions, if they are less prominently reported and if, as a result, our political leaders pay them less attention, surely we should all be less concerned than we have sometimes seemed to be about the impact of polls on our politics and indeed on our democratic process. If we can persuade our political leaders to be less mesmerised, I think we can afford to relax.

As I said earlier, frankly, I am much more troubled about the effect of digital media on politics—the second strand of our committee's remit. Although it was frustrating, I think that we were right to recognise that this was far too large a topic to be covered properly in our reporting timeframe. However, we took some evidence about the relatively simple issue of the impact of the internet on the mainstream polling industry, where the net clearly makes it cheaper and quicker than before to conduct large surveys. For me, Professor Curtice summarised the present situation crisply by saying that being cheaper and quicker did not necessarily equate to doing polling well.

It was also useful that we succeeded in getting some interesting views on the way that digital news media and social media platforms have revolutionised the way we absorb and use information, and on the relevance of this revolution to our political conduct. We touched on the potential for misinformation in the political sphere, particularly when this can be algorithmically manipulated by those with an interest in malignly influencing any democratic process. The House will of course be aware of the vast number of international investigations into this kind of activity, but, again, we could touch only the surface of the global debate.

None the less, the report has a clear focus on the need for urgent government action to explore possible ways of regulating at least some parts of the digital universe. We emphasised that the use of social media to direct and distort democratic debate adversely was deeply concerning, and we recommended that, particularly with online advertising, the Electoral Commission should be given wider responsibilities. As the noble Lord, Lord Norton, has already said, in their response the Government have not reacted positively to any of the suggestions about increasing the role of the Electoral Commission but they have promoted the extensive role of the digital charter.

When he gave evidence to us, the Secretary of State, Matt Hancock MP, was energetically optimistic and determined to use the charter to find general solutions. The formal government response states:

“The Digital Charter is a rolling programme of work to agree norms and rules for the online world and put them into practice”.

I certainly do not challenge those good intentions but, once again, I am somewhat sceptical about success. When I look at the giant digital corporations based in California and embedded in the American financial and political system, I do not see an easy accommodation with the highly regulated, financially controlled political systems that we are familiar with in western Europe. I am, frankly, not surprised that when a Commons Select Committee travelled to Washington to hold hearings with the west coast corporations—at that time about fake news—the discussion was described by observers as a dialogue of the deaf. It may be that the big platforms themselves will take action, and there are some suggestions that this is beginning to happen; none the less, there needs to be much more international research and many more conversations and negotiations at a technical as well as a political level.

As I said, I regret that our committee was unable to take some of these issues forward. As your Lordships are aware and as the noble Lord, Lord Lipsey, has

repeated, we suggested to your Lordships' Liaison Committee that another committee should be appointed with this specific remit. This proposal was not accepted for the current Session but I very much hope that it will be looked at again.

To conclude, I think that the House of Lords is particularly well placed to conduct a dispassionate and concerted investigation into the broader risks to democracy which threaten us in a world of digitally determined and volatile politics. The Lipsey committee has opened up an enormous agenda which we must return to.

5.14 pm

Baroness Janke (LD): My Lords, I too pay tribute to the noble Lord, Lord Lipsey, for his leadership on the committee and the noble Baroness, Lady Jay, for the role that she played in the closing stages, bringing things together and spreading harmony between the different views on the committee. I also pay tribute to the committee team for their very high-quality support. Many of us felt that we learnt a great deal from the material and the witnesses whom we met.

This report should lead us to think about the democratic process as a whole. It has already been mentioned that we have not done much on the digital world, but our democratic processes are very precious. If they are not to be susceptible to subversion and corruption and the risk of powerful and wealthy interests, we must look urgently at the influences on the democratic process.

As a politician, I know that many of us fear and are fascinated by polls. I remember one election when I was a councillor I was almost dreaming of leaflets that said "Liberal Democrats 6% in the opinion polls". But the polls do not always take into account a regional perspective or the difference between city regions and travel-to-work areas. The referendum showed huge divergence of opinion across the country, and the national tendency to focus on what people think in London should be questioned.

As the report says, polls can be very influential, not least in the way that they are reported and the way that pressure can be exerted on politicians and electors. The lack of accuracy in the recent performance of the polling industry, which has been well documented, can also add to the lack of trust that we see many of our fellow citizens have about the ability of systems to deliver what they want and expect. This whole issue of trust is important, particularly in elections.

The important questions for me are: who is commissioning a poll and what are their interests, financial and otherwise? Who is paying for a poll? How transparent is the methodology, and how has it been validated in terms of consistency of approach, selection of participants and objectivity of analysis? Obviously, that comes down to how effectively our polling organisations are regulated.

As we see from the report, self-regulation of political polling is mainly carried out through the British Polling Council and, to some extent, the Market Research Society. The BPC is effectively an association. It has voluntary membership, voluntary staff and very little money. It does not and cannot express a view on the

merits or otherwise of a particular poll. Transparency of funding is limited to printing the name of the client—no information on the sources of funding—and that is all the information it requires. The Market Research Society has a code of conduct that sets clear standards and has disciplinary procedures, but it does not cover all polling organisations. The chief executive recognised that activities conducted during a general election need much more careful monitoring.

The noble Lord, Lord Lipsey, mentioned the French Commission des Sondages. That seems an interesting organisation in that its members are representatives from the highest legal and judicial bodies and it is funded through the French Ministry of Justice. Its job is to ensure that polls on electoral debates are not tainted by methodological error or manipulation which may affect the fairness of the election. The commission can also issue notices, "mises au point", in the press when a poll does not meet the acceptable standard. A witness commented that sometimes this could lead to the polling organisation concerned or the director of the study to actually leave the poll sector. It might also lead to the media terminating contracts with targeted polling organisations. Seven of these mises au point were issued during the 2012 presidential election, but none in 2017. As the report states, the committee was not persuaded that this method offers any distinct advantage, but I would say that having government-backed regulation with a framework in law must be a big plus when it comes with effective powers to call out bogus polls, certainly when compared with the laissez-faire approach we have here at the moment.

We have already mentioned the media and our hope is that the findings and recommendations of the report will influence them, although I am inclined to agree with the noble Baroness, Lady Jay, that I am not expecting great things to come from that. However, when we think of how we who stand for elections have to count our however much it is per head of population, how we have to have special printing on our leaflets and take them back in again or face prosecution if they are not correct, how every committee room meeting and telephone call has to be documented, we none the less have these big players in the polls that can be paid for by organisations and are not transparent, yet election law says absolutely nothing at all about them.

It has been pointed out already that we have not covered digital, but it seems that it is even more the case that our electoral law does not really see the wood for the trees. Much as I am pleased to see the digital charter being pursued, a close examination of our electoral law governing elections as we have it at the moment would be a very good thing.

The committee drew back from a ban on voting intention polls in the run-up to elections. The view that was moderated across the committee was that we should give polling organisations and the press a chance to better police themselves, and I hope that that will happen. The digital threat, which I am sure that the noble Baroness, Lady O'Neill, will talk about in her speech, is absolutely massive in scale and is something which again I hope will be examined in much more detail as it relates specifically to elections and electoral law.

[BARONESS JANKE]

This report provides us with a great detail of information about, insight into and understanding of polling and its influence. If adopted, the recommendations will certainly take us forward, in particular those which recommend further action. What is both obvious and alarming is the advancing sophistication along with intelligent means of persuasion and influence which are now at work and are unconstrained, thus running rings around our outdated electoral processes and law while at the same time its proponents take pleasure in boasting about how little these things affect their activities.

I thank the noble Lord, Lord Lipsey, and my fellow members of the committee. I hope that the recommendations will be taken forward and that the Minister will be able to respond to the concerns which have been expressed, some of which are extremely urgent. Despite the disappointing response from the Government, I hope that we can find the means to take this work forward.

5.23 pm

Baroness O'Neill of Bengarve (CB): My Lords, the report of the Select Committee on Political Polling and Digital Media, of which I had the honour to be a member, was intended to address one pretty urgent but relatively well-defined topic and then one less well-defined topic, which to me is probably even more important. The urgent topic was to inquire into why the polling organisations provided estimates which in the event turned out not to be as accurate as had been expected in two general elections and the referendum campaign. That was very well defined. The less well-defined topic concerned the role of digital media in political campaigning. So, the remit was actually quite complicated and the Select Committee rather short-lived. For that reason, I am particularly grateful to our chair—the noble Lord, Lord Lipsey—the noble Baroness, Lady Jay, and the clerks for handling a very complicated set of topics that did not entirely gel.

As the report makes clear, the committee concluded that, in the main, problems of recent political polls were probably not due to deficiencies in the conduct of polls by polling companies. That is solid and reassuring, but it is not a reason for complete satisfaction because we also reported that pollsters were encountering greater reluctance to respond, public confidence in what polls report was declining and there were considerable problems with the use of polling results by parts of the media.

The report's recommendations address some of these issues. They include greater co-ordination between the industry, the professional body—the British Polling Council—and the Market Research Society, as well as between the Electoral Commission and media regulators. They are measured on proportionate suggestions and it is good to see that the Government are taking them fairly seriously. However, the recommendations do not address the wider issues raised by the spread and power of digital media that bear on political polling. I think that this is because we found the evidence patchy and difficult to assess in the brief time available. Indeed, in some cases witnesses suggested in evidence taken in private that matters were worse than they would, or perhaps could, say in public.

As the topic is vast, I will speak only about a few relevant matters. First, digital media include social media but not all digital media are social media. That is fundamental. Social media content is posted by individuals and controversy arises at two points. The first, better-known issue is that content posted by individuals may mislead or harm. Your Lordships' House has had considerable opportunities to discuss some of the harm that can be done to individuals by certain uses of social media, such as fraud, cyberbullying, trolling, defamation and many more.

Of course, such action also goes on without the support of digital technologies and is usually criminalised. The difference and the difficulty with content posted on social media by individuals is that it may be posted anonymously, so sanctions are very hard to impose. There is a big debate to be had about the effects of social media use that targets individuals and the limits of arguments for permitting anonymously posted content. Anonymity is often supported with claims that it is needed for whistleblowing. That is incorrect; I think that confidentiality is much more relevant than anonymity to whistleblowing, if you want it to work. The second reason for anonymity is to report news under oppressive regimes. Thank God we are not facing that. This is hardly an argument for permitting anonymity, whatever the communication. The rise of anonymous posting is in itself a social phenomenon about which we need to think intensively and urgently.

The second way in which the use of social media can lead to harm is when posted content is organised to reach some but not others, thereby exerting some control over what individuals receive. Targeted advertising and messages may shape the content that individuals receive and can thereby add or limit content that supports—or, alternatively, seeks to undermine—a given cause. We did not obtain any solid evidence of the extent to which the content that individuals receive has been subject to control or influence. That was one of the big gaps in our evidence. Evidently, if we imagine a wide-open conversation of mankind, we can tell ourselves that the more voices are included, the better—for social life and democracy. However, if the spectrum of choices or positions that are heard is being shaped by other considerations and is often selected to support a cause, or limit support for another cause, then fundamental questions arise about the feasibility of democracy in the age of social media, and now to digital media that are not social media.

There is one more effect that social media have. Social media also monetise the data that individuals supply by using those data to organise and target advertising—by which, of course, the companies secure their revenue. Once again, there are legitimate reasons for concern. There is no reason to suppose that the content that is distributed by social media will secure any even or unbiased distribution of information or evidence to electors. In fact, we have good evidence of the contrary happening, although I think not yet evidence of the scale, the effects or the effectiveness with which this is happening. We just know from some empirical studies that there is uneven distribution of content. These, I think, are reasons why the report could not offer a more systematic account of the effects of digital media, especially social media.

However, digital media go further. Digital media include not just social media but other digital enterprises where the content is not posted by individuals; it is made available by organisations; created, we may say, by organisations; and, indeed, invented by organisations sometimes. Some of these organisations, of course, have clear political purposes, including, very frequently, undisclosed and sometimes malign purposes. It is often hard to detect the source or the allegiance of digital media. Here, a blogger may be indistinguishable from a journalist and probably calls himself or herself a journalist. Here, discipline, let alone credentials, may be wholly absent. Here, there is no editor. Yet we talk about digital media as though they consist of professional journalists who are disciplined by editors who seek to provide reliable content for others.

We talk about digital technologies as if they can be regulated. This may be the deepest of our difficulties. It is often said these days that what we need to do with digital media is to make sure that they are not treated as platforms but as publishers. If they were publishers they would, for example, be subject to the law on defamation, to take one simple example. As platforms, they are not. Nor, of course, are the individuals who post stuff anonymously subject to the law of defamation. This is an extraordinary escape from legal and regulatory discipline. Can it be remedied? Until about a year ago I thought so.

I think we face two major obstacles in addressing what digital media can do. One is the jurisdictional problem. It is extraordinarily easy for these technologies to shift their supposed location: they have very little fixed infrastructure and they can move, as we see by the fact that they pay so little tax. They can move their headquarters where they choose. If we seek to regulate them, it is quite likely that they will find more convenient jurisdictions in which to operate. The other reason why I suspect they cannot be regulated as publishers is that being a publisher is, as many of us know, pretty arduous. You have to read the stuff. There is too much, however, that is posted; they could not carry out the due diligence that is the daily work of publishers.

We talk as if we still lived in a world in which journalism can be reliably distinguished from self-expression, in which political advertising can be identified by seeing who paid the bill. I think that is given the lie by the fact that what we are actually regulating is the paid-for advertising of the political parties during election campaigns, a very narrow form of control when all sorts of other things are going on. I do not think it will prove viable for much longer to regulate only advertising by political parties during election campaigns and to turn a blind eye to all the other advertisers using the same technologies and spreading what they choose to spread. Political persuasion is now cheap and it can be done by those who have no business doing it. We are all aware that the mighty Facebook apparently did not realise that it was hosting political advertisements that had been funded from Russia. I think that is a warning call for all of us. If we are to retain democracy we have to find ways of detecting and ending practices of this sort.

5.35 pm

Lord Smith of Hindhead (Con): My Lords, it was an honour to serve on this Select Committee under the chairmanship of the noble Lord, Lord Lipsey. It is good to see him back to full strength following his illness towards the end of the committee's deliberations.

Recent political polling, as has already been mentioned, has been problematic, with three of the last seven elections being incorrectly called. The general election in 2015 was widely considered to be an embarrassment for the polling industry, and this poor standing was not enhanced by its performance at the 2017 general election and the referendum. What became clear to me during the process of taking evidence on polling was a certain amount of blame-gaming between the polling companies and the media. Polls taken during a campaign are effectively a snapshot of a horserace. There is no real way in which these snapshots can be tested, since the election has not yet taken place; and while the polling companies do state that there are margins of error and that often the sample sizes are not significant, these health warnings do not, or rarely, translate into how a poll is reported in the media.

As a result, when the polls have been proved to be incorrect following the finishing post of an election, the media will blame the pollsters for getting it wrong, and the pollsters will blame the media for not properly reporting the polls that have been published. In fairness to both the polling companies and the media, there is a recognition of these shortcomings. I hope that during future elections there will be improved accuracy of polls, with polling companies recognising that people's social habits have changed, and that as a result, the methods used for taking polls will be updated or, perhaps more interestingly, we will revert to the old style of knocking on doors. The media need to take more care in reporting polls, making sure that sample sizes and margins of error are clearly indicated and explained.

What is the point of polling? That is a question that I frequently asked—a question that on several occasions proved to be the most difficult one for witnesses to answer. In fact, I am still not sure that some of them have worked out what the answer should be. Many witnesses referred to the fact that the exit polls had been very accurate in recent elections, but that should not really be such a surprise: exit polls are not a snapshot of the horserace but, of course, a shot of the finishing line, when people have voted, and they are taken from a much larger and UK-wide sample. I also asked, rather waspishly, what was the point of the exit poll, apart from giving Mr Dibley and others something to talk about from 10 pm on election night until 6 am when the outcome is known. Again, there seemed to be some hesitation, before a falling back on the need to educate and entertain.

However, the question to which I found it most difficult to establish a definitive answer was whether polls have an effect on the way that people vote. In other words, could the outcome of future elections be affected by misleading information, potentially distorting the democratic process? My own view is that some people like to be on the winning side, and could therefore be swayed by a poll indicating a particular

[LORD SMITH OF HINDHEAD]

party's strength, while others might be persuaded to vote against a party, if a poll were to indicate a landslide, in order to create a balance. I should point out that this is merely my gut instinct: it was shared by several witnesses but not all. What was clear, however, was that there is no grand conspiracy involving polls being deliberately wrong or deliberately misreported to create such a hypothetical scenario.

I cannot express how important I think it is that our recommendation for a proper and enforceable framework for the regulation of polling be put in place. This is the challenge for the British Polling Council, media regulators and the Electoral Commission, since if polling continues to be inaccurate then there is a risk that future elections could be affected by misleading information, potentially distorting the democratic process.

The question of the effect of digital media on polling was perhaps the most interesting part of the Committee's work, but as our report states, the issues raised were so significant that they stretched beyond our remit and we did not have the capacity to give due attention to them all, although I am very pleased that the noble Baroness, Lady O'Neill, covered many of the points in her excellent address. I do, however, know a lot more about manned and unmanned bots than I did previously and there is concern, rightly, that measures should be put in place to tackle online manipulation and disinformation.

I am pleased that our recommendation to co-ordinate a strong international response to tackle any attempt to maliciously interfere with the UK's democratic process has been supported by the Government and that work is already under way with allies and partners to promote a collective response. This is the real challenge for the future.

5.40 pm

Lord Foulkes of Cumnock (Lab): My Lords, I add my thanks to our chair, the noble Lord, Lord Lipsey, and our locum chair, the noble Baroness, Lady Jay, both of whom were really exceptional and showed their vast experience in politics and Parliament. I also thank the staff, who were exceptional, and the witnesses, without whom we would not have had a report.

Like most, if not all, the Select Committee reports that we see, the report is a compromise. As the chair alluded to earlier, I argued very strongly for strong statutory oversight and regulation of political polling. But even the mild compromise that we put forward in the report has been rejected in the disappointing government response, which says:

"The Government believes that regulation is a matter for the polling companies".

That was complacent when it was published but after the Bloomberg revelations it now appears criminally irresponsible. My noble friend Lord Rooker asked an Oral Question last Thursday in response to which the noble Lord, Lord Young—who is in his place—gave a hospital pass to the Minister who is here today and said that he would answer all the points, so I am looking forward to his answer to the point I am going to raise. It is just one, very serious issue. I hope it will convince the noble Baroness, Lady Jay, that there is at least one matter of real concern that needs to be dealt with.

The revelations by Bloomberg, after seven months of detailed investigation by a team led by Cam Simpson, which interviewed people involved in the polling companies and the hedge funds, show that there was a secret conspiracy between the polling companies and the hedge funds to manipulate currency levels in order to make billions of pounds, in which Nigel Farage appears to have been one of the conspirators. His recent denials on social media, if anyone has seen them, have become even more desperate, which convinced me that he was involved.

So how did all this start? During the Scottish referendum, the pound fluctuated with the rogue polls. There were two: YouGov and another one. As we discuss in our report, we were all concerned about the accuracy of polls as a result of that. But the hedge funds were looking rather differently. They saw the chance of making money out of these kinds of fluctuations when referenda take place. They thought, quite rightly, that the European Union referendum would be even more influential than the Scottish referendum in causing currency fluctuations. On the night of the European Union referendum poll, in the run-up to the result, a lot of us were astonished when Nigel Farage appeared on national television—and it was broadcast throughout the world—conceding defeat in that referendum. He was backed up by Joe Twynam from YouGov, who also predicted a remain victory. The headlines went nationwide and the pound went up to \$1.50, which the hedge funds wanted, of course.

However, both Farage and YouGov apparently knew from their secret polling—purchased at substantial expense from four other polling companies: Survation, ICM, ComRes and BMG—that the actual result was entirely the opposite and it was going to be leave. So when the actual result was announced, the pound dropped and the hedge funds made a huge killing—billions of pounds—because they had this inside information that they had paid all that money for. So the hundreds of thousands—perhaps even millions—of pounds that they paid to the polling companies for these secret polls was in fact a real bargain investment for them.

The law on this is quite clear. It says that if, "any section of the public",

is given information which is not publicly available, it is a criminal offence. So action needs to be taken in relation to that. Farage had inside information of the polls and he needs investigation. The polling companies were party to this and they need investigation. The hedge funds were party to this and they need investigation.

The Bloomberg report has been spread widely over social media but very little of it has received coverage in the mainstream media. I wonder why. Could the vested interests be twisting arms in relation to this? It is just a suggestion. Why has the Metropolitan Police not taken action? Does it need someone to draw its attention to it? Has it not heard of the Bloomberg report? It has been available to it. Why has it not taken action?

This brings me particularly to Nigel Farage. We seem to have become inured to Farage and some of his outrageous activities. This is one of many. There are also his connections with Russia and his misuse of European Parliament funds. Why is he being protected—

indeed, projected—by the media? Why do his views receive so much coverage but some of his actions do not? I hope the Minister can deal with this in his reply, although I know it will not be easy and I would be happy to look forward to a detailed response in writing.

I also hope that the Select Committee might be reconvened to look at this—I say this to the chair and I have written to the Senior Deputy Speaker about it—because we did not know about it at the time so we could not ask questions about it, and of course the polling companies were not going to volunteer that kind of information. I am a member of the Liaison Committee, which is looking at the future structure of committees and is going to recommend, I think, that there should be the opportunity for committees to be reconvened if they need to look further at a matter into which they carried out an investigation.

This is a scandal, which can no longer be swept under the carpet. If it is, Parliament will be seen to be impotent and we will not have been carrying out our duty and our responsibility.

5.49 pm

Lord Rooker (Lab): My Lords, I was not a member of the Select Committee. It is a very interesting report and I am glad that I have been able to listen to the speeches today. I have decided to follow up my Oral Question last Thursday for the very reason given by my noble friend Lord Foulkes—that the mainstream press has basically tried to ignore the issue that has been raised.

It is 9.40 pm on Thursday 23 June. Polls on the EU referendum close at 10 pm. The law means no exit poll information until the close of poll—or, more correctly, no exit poll information to any section of the public before close of poll. Does it matter? Is anyone interested? Well, thanks to the Bloomberg report entitled *The Brexit Short: How Hedge Funds Used Private Polls to Make Millions*, which was published only on Monday last week, we know a lot more than we did.

I have no problem with people buying polling information, and as a non-lawyer I cannot see a law broken—although it appears that the issue of exit poll information getting to people before close of poll has not been tested in the courts. Information is gold and can be used for betting on horses as well as financial markets. Information about the market can also be used to change the market—and done in secret it poses questions. It is not insider trading but it can look like market manipulation.

Here we have a unique situation: a national referendum on the UK's 44-year membership of the European Union with which our economy and social fabric are intertwined. The votes are taking place on 23 June and the counting starts to flow only in the early hours of 24 June. The world's financial markets are open 24/7 wherever you are, so knowing what might have happened as people actually voted could be useful information for placing financial bets. It turns out that half a dozen pollsters, listed by my noble friend, were simultaneously working for hedge funds and, after 10 pm, sharing information with the media. None of this was disclosed by the pollsters, and, so far as I can see, none told the committee, either. It is not illegal—

indeed, it is all legal and secret. So before 10 pm some pollsters had exit information which, given the fees they were charging, could be expected to be of high quality. According to Bloomberg, the fees were astronomical. We are talking about a £1 million fee to the pollsters.

I have never met Mr Farage, who is a person of importance in public life in the UK. He is clearly very brave. I remember the 2010 election when he had an aircraft accident and was incredibly lucky to get away with his life. He moves in circles above my pay grade and calculates his every move himself—or it is done for him. He is careful as a political leader with public statements, and, given that it was the 4 million UKIP votes in 2010 that terrified our former Prime Minister into agreeing an in/out referendum, he carries substantial influence in the UK and beyond our borders. He is both a City expert and an MEP. In other words, he is an opinion former of considerable substance to people in the UK and outside.

So I go back. It is 9.40 pm on 23 June, and there are 20 minutes to the close of the poll. Mr Farage is in the Sky studio recording his post-10 pm statement. It was a concession: “Remain will edge it” and “UKIP and I are going nowhere”. When he recorded this, Bloomberg claims he had information from Survation that leave, not remain, had won.

“In an interview with Bloomberg, Farage said he had learned of Survation's results before making at least one of two public concessions that night, meaning there was a good chance he was feeding specious sentiment into markets”.

Indeed, behind the scenes pollsters were selling information to hedge funds that leave had won. This information could not by law be given to the public before 10 pm. Bloomberg research tells us that Mr Farage twice told the world that leave had likely lost, when he had information that leave had won.

As the polls closed, YouGov predicted that remain had won 52-48, and, according to page 4 of the *Guardian* on 25 June 2016—I have gone through my cuttings again—Mr Farage said remain had edged it because his,

“friends in the City”,

were betting on the UK staying in. The *Guardian* also reported on that day, two days after the close of the poll, on the same page:

“Little attention was paid to a bigger poll of 10,000 people commissioned by Leave.EU founder and Ukip donor Arron Banks which turned to be on the money at 52-48 for leave”.

Bloomberg research tells us that hedge funds wanted data streamed throughout the day on 23 June, polling day. This could not by law be published. Many academics worked on these polls for the hedge funds, but declined to comment, citing non-disclosure agreements. Two books published since claim that Mr Farage learned about the unidentified financial services exit polls well before the close of the poll. They also say that Mr Farage learned of the result before recording his concession to Sky at 9.40 pm, which was used at 10 pm.

Mr Farage, Bloomberg claims, has changed his story—I have seen this on social media—at least twice about who he spoke to. He has claimed that his Sky concession was not a “true concession”, but he cannot explain why, 70 minutes after the Sky broadcast, he

[LORD ROOKER]

gave a further concession after 11 pm. Why would a man of his political substance on this crucial evening claim a remain win when he had information that leave had won? His words moved markets, and as the sub-heading of the Bloomberg report states:

“Private polls—and a timely ‘concession’ from the face of Leave—allowed the funds to make millions off the pound’s collapse”.

So the issue is not one of Mr Farage being misleading. He can as an elected MEP do that any time. He should not be the target—although I did go to Thanet in 2015 to stop him getting into the Commons, and was quite successful. No, the issue is that, as Bloomberg puts it:

“With one hand, the pollsters fed the public information that affected the outcome and moved the markets. With the other, they sold data privately to clients betting on market moves created by their public-facing polls”.

That is what should be investigated and regulated, because that is where the real rip-off comes about. It is not about individuals; it is about the open manipulation of the market by giving false information.

I do not think this could happen in a general election. It probably would not be the same, but the referendum was unique because there was not proper, effective exit poll. For reasons that have been explained by the pollsters, it is no possible to replicate the success of exit polls in a general election. This quite clear misuse of information by the pollsters to mislead the public and feed the markets, created by their own false moves, ought to be investigated.

5.58 pm

Lord Griffiths of Burry Port (Lab): My Lords, from my position in this debate no one will expect me to unwrap the enigma that is at the heart of the representations that have just been made, so I must just replicate what was done by the noble Lord, Lord Young: there will be another hospital pass for the Minister in a moment. The urgency of the plea cannot be ignored. The case has been well made, and we look forward to how the Minister will help us to deal with this matter. I felt that other contributions to this debate wandered into the territory of the digital aspect of polling. The contribution by the noble Baroness, Lady O’Neill, did this in particular. It leaves me recognising not that I or anybody should be responding but that notice has been given that this whole area needs urgent attention, and indeed the report says so. It says that Governments, regulators and platforms themselves are on the back foot and that urgent—the word “urgent” is used several times in the report—attention needs to be given to the subject.

I hope the Minister will be able to give us some assurance as to how this is to be taken forward. The report appeared in March this year, four or five months ago, and many things have happened since. Mention was made of Cambridge Analytica but that was only just happening at the time. Today we have heard about the Bloomberg report and many other aspects of the way that these platforms are behaving and all the activity that is happening. Heaven knows what will happen when the Mueller report on the possible interference of Russia in American electoral policies causes us to see the consequences of all that.

I mention digital not to discuss it but to recognise that the report indicates that that is where the action must now be. As far as the report itself goes, I learned a lot about the mechanics of making polls, the differentiation that is made between the variables and the volatility of public opinion, demography and the need for transparency, and lots of other things. Six out of eight speakers in this debate have been members of the committee, and they have faithfully taken us through the material contained in the report and given us a very good picture of the ground that it covers. The noble Baroness, Lady Jay, has helped us to get a whiff of some of the controversy and subterranean movements that were happening within the discussions of the committee. That made for more drama, and of course we have had a lot more since.

This is a very important report. I congratulate the noble Lord, Lord Lipsey, on bringing it together in this concise way. Possibly he will recognise—indeed, this is mentioned in the report—that it goes only as far as the remit took the committee. Now we need action on where the real drama is—the digital area where polls can happen in particular ways and opinion can be moulded through particular technological devices. I look forward to getting some reassurance from the Minister on that. With that, I pass the rugby ball across the Dispatch Box to the Minister.

6.02 pm

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, I add my thanks to the noble Lord, Lord Lipsey, for chairing the committee and to the noble Baroness, Lady Jay, for stepping into the breach when needed. I further thank the noble Lord, Lord Lipsey, for taking the time to meet me yesterday to discuss his report. I also thank members of the committee for their timely inquiry and detailed work in examining such a complex set of issues. Lastly, I thank those who have contributed to this debate for highlighting a critical area of concern to the House and indeed to our democratic system of government.

With regard to the committee’s recommendations, as the Government said in our response to the committee, many of its initial recommendations are for the British Polling Council. The council is an independent body, so we feel that it is not for the Government to comment on the detail of the recommendations. What I might say, though, is that after the 2015 general election no one was more interested in addressing polling inaccuracies than the polling industry itself—because there are clear reputational and financial repercussions for the industry from inaccurate or poor-quality polling. We continue to support the independent self-regulation of polling by the BPC and judge that this model is most effective at addressing the risks, rather than additional regulation at the moment. I am sure that the BPC will look carefully at the committee’s recommendations.

I welcome that fact that during its investigation stage the committee took evidence from the Electoral Commission as the independent regulator of elections. While fully respecting its independence, the Government work closely with the commission on a wide range of election issues. We share a concern to ensure that our

electoral systems are safe and secure. We do not believe that there is a case for extending the remit of the Electoral Commission to cover polling standards or to create a register of political polling. As I have already argued, self-regulation is the right way to ensure high-quality and transparent polling, with companies responding to existing market incentives rather than bureaucratic ones to improve the standard of their activities.

However, the committee also recommended ensuring that political advertising was clearly advertised, with “digital imprints” for online election materials. As we heard in the debate, imprints are familiar in relation to printed election leaflets and so on. I agree with the committee and several noble Lords who have spoken today that more work needs to be done in the digital world on this issue. So I am pleased to confirm that the Government will soon launch a consultation to consider how digital imprinting might be taken forward.

In their speeches, the noble Lord, Lord Lipsey, and my noble friend Lord Norton also referred to an expanded role for the Electoral Commission, including the commission’s own report of 26 June. I have already spoken about some of the commission’s recommendations—for example, digital imprinting—and how we are addressing them. In reply to my noble friend, other recommendations, including greater transparency in digital campaign spending and greater sanctioning powers for breaches of electoral law, will be considered carefully by the Cabinet Office. We believe that these issues are important. However, we believe it is right to consider these together once we have the recommendations and lessons from the commission’s ongoing investigations and the current court case is completed.

The committee also made a series of recommendations for tackling the recent spread of online disinformation, including so-called “fake news”, and my noble friend Lord Smith addressed this in his speech. The Government take the issue of online manipulation and disinformation seriously, particularly where it may influence political debate. Our democracy is built on trust in electoral processes, as the noble Baroness, Lady Janke, reminded us, and on confidence in public institutions. Disinformation can undermine that trust. It is absolutely unacceptable for any nation to interfere in the democratic elections of another country. To date, we have seen no evidence of successful foreign interference in our democratic processes. However, we are not complacent, and the Government would take robust action should any evidence emerge that this has happened in the UK or that it is being attempted.

I agree with the committee that more work is needed, especially in the online space, to address the negative effects of disinformation and manipulation. As part of our digital charter, the Government have already taken steps to tackle the areas identified in the committee’s report and more besides. The first challenge is to understand more fully the scale and impact of disinformation. As part of this, we look forward to the DCMS Select Committee’s report this summer into fake news. Further, the Government are undertaking research over the summer, working with academics, media and representatives from the tech sector, better

to understand the problem. Combined, this will inform the Government’s ongoing policy response, focused on education, technology, communications and ensuring that the right regulation is in place.

As part of our work on internet safety, on which we will publish a White Paper by the end of the year, we are looking at online advertising and microtargeting, and ways to increase transparency. This is one of the most effective ways of ensuring that people have the information they need to make informed choices. The noble Baroness, Lady O’Neill, neatly outlined in her speech why the committee decided that the digital space was beyond its abilities in the time available. We will take her points to heart. We agree that we will not be able to leave everything as it is for ever.

The noble Baroness talked about content on social media. The internet safety strategy that I mentioned just now is looking at exactly those issues, including anonymity. We agree with the need to tackle anonymous abuse and illegal content. As the noble Baroness said, this is a complex issue given the need also to protect human rights.

Targeted advertising is not just for elections. DCMS is looking at advertising in the round. Where does targeting become manipulation? Transparency is important, but not a full solution. The scale, source and impact are hard to assess. That is why, as I said, we look forward to the report of the DCMS Select Committee in the other place and, as I also said, we will be looking at a lot of these issues over the summer.

As part of this, as the report rightly notes, the Government want to help citizens, both young and old, to build their digital literacy skills, because it is important that everyone can spot the dangers, think critically in an informed way about the content that they are consuming and understand that actions have consequences online, just as they do offline. For example, the noble Lord, Lord Lipsey, highlighted the consequences of failure correctly to understand the significance of the margin of error. There is already a range of initiatives across the school curriculum to help with this. DCMS is working with the Department for Education and others to look at how we might build on them, as well as working with other institutions and organisations to reach a wider audience.

In partial answer, at least, to my noble friend Lord Norton, in the citizenship curriculum, pupils are today taught critical media literacy so that they can be helped to distinguish fact from opinion, as well as explore freedom of speech and the role and responsibility of the media in informing and shaping public opinion. I will, however, take his remarks about qualifications and pass them to the Department for Education. We are working on this over the summer in our digital charter. One of the five key areas is education and guidance to ensure that citizens have the skills to tell fact from fiction. That was in the response to the report.

Emerging technologies also have great potential in helping the Government to tackle online manipulation and disinformation. We welcome steps taken so far by the industry—for example, removing the bots that disseminate this information—but more needs to be done to tackle the problem and to support other,

[LORD ASHTON OF HYDE]

smaller companies to address the issue. To do this, we need companies proactively to engage with us on emerging tech solutions.

Another way that the Government will safeguard citizens from online manipulation is by addressing the issue of personal data misuse by technology companies and platforms. As the Prime Minister said, the allegations related to Cambridge Analytica are very concerning, and it is absolutely right that the Information Commissioner is investigating this matter. She is committed to producing a report about the wider implications of her investigation, and we look forward to reviewing the findings.

I cannot avoid it—eventually, I have to come to the issue of Bloomberg. I was aware of what my noble friend said last Thursday as he handed the issue over to me. He is obviously a politician of great experience, and when he gives a hospital pass, you can be sure that you are hospitalised. However, like the noble Lord, Lord Lipsey, I am back. My noble friend was right to say that private polls are not illegal. As the noble Lord, Lord Foulkes, said, the law on exit polls is clear. The Representation of the People Act 1983 prohibits the publication of exit polls at UK parliamentary elections before the close of the poll, and this was applied for the EU referendum.

We do not comment on private arrangements between private polling companies and private hedge funds, but I would say that, if anyone has evidence that an act was illegal under either electoral or financial law or regulations, they should report it to the appropriate authorities. With reference to Mr Farage, I can only repeat what he was reported to have said to Bloomberg. He is reported to have said—rather inarticulately, but the gist is clear:

“That would have been, that would have been—for he and I to have spoken ahead of that 10 o’clock—would have been wrong at every level. Wrong for me, wrong for him, just would have been wrong”.

I am very reluctant to go any further. As I said, we do not comment on private deals.

Lord Foulkes of Cumnock: I respect what the Minister said. We are not asking him to comment on a private deal. There are two points to be made. First, if information is made available to a section of the public, the law is clear—that it is effectively being made available publicly—and the section of the public in this case was the hedge funds. So some breach clearly took place. Secondly, the evidence may be circumstantial, but it is overwhelming. Surely there must be some way that the Government can deal with it. It is not a private arrangement; it is a major issue whereby billions of pounds have been made by currency speculation because of a secret deal between the polling companies and the hedge funds. If the Government cannot take that up and do something about it, they are more impotent than I thought.

Lord Ashton of Hyde: The first thing is that the Government have to act according to the law. The law must be obeyed and if there is a breach of the law, the authorities should investigate it. When a private poll is commissioned, quite apart from why a particular poll should be regarded as more accurate than another, that is a different question to a section of the public. I

am told that that point was made in the Bloomberg report to which I referred. If it has been shown that acts have taken place that were illegal but questionable, the Government should look at the law. If, however, acts have taken place that were contrary to either electoral or financial law, the authorities should look at them and complaints should be made by people who have evidence of that.

Lord Foulkes of Cumnock: One problem, as I understand it, is that this may not be something that the department for which the Minister is directly responsible can deal with. Will he draw it to the attention of Ministers in the department which might be able to act?

Lord Ashton of Hyde: The first thing I will do is find out which department that is, and I will certainly draw the Bloomberg report to its attention. I assume it knows about it already, but I am very happy to do that.

Moving on, and going back to the report at hand, the noble Baroness, Lady Janke, asked whether the Government shared the concern that polling is being misreported and can be misleading. We agree with the British Polling Council that transparency is the best way to guard against polls being misleading—whether deliberately or accidentally. We therefore welcome its statement in May this year, which introduced a new requirement for its members to report the level of uncertainty when reporting estimates of voting intention. We are also encouraged that it will revise its guidance to journalists on the reporting of polls and will work with other relevant organisations to develop a suitable programme of training for journalists. Of course, broadcasters have a duty through Ofcom to ensure impartial reporting.

I have, however, taken on board the caveat to the remarks of the noble Lord, Lord Lipsey—that if at the next general election the polls get it completely wrong again, all of us will have to revisit the issue.

In tackling all these issues, the Government are committed to working with international partners, industry and civil society. I welcome the recent discussion at the G7 summit about tackling disinformation, and look forward to continuing to work with like-minded partners.

I thank noble Lords again for their contributions and hope they can see that we are taking this issue seriously from some of the things we have said about what we are doing before the publication of the White Paper, particularly on the digital space, the internet safety strategy and the digital charter, along with the work we are doing this summer and the assurances I have given that the Cabinet Office is aware of these issues. We will consider the issues raised carefully, with a view to taking concerted action.

6.20 pm

Lord Lipsey: I shall be very brief, or kick-off really will be threatened, certainly for participants in the next debate. I thank the Minister for his reply and in particular for the tone of that reply, which was in

contrast to the official government response to the committee. I welcome in particular what he said about the British Polling Council, although I do not agree with all of it. Transparency on its own is not enough. That was the old BPC doctrine; the new doctrine goes further than that. For example, it staged an inquiry into the 2015 general election and, if self-regulation is to work, it must have an increased role. I take the Minister's words to mean that the Government would in no way be opposed to that and, indeed, would welcome it, because that would secure the self-regulatory alternative that he and, on balance, I would prefer.

I thank all those who have participated in this debate and the kind words that were said about the committee and its work. It was comforting, as chairman, that most of the debate was about two issues—digital and social media and the Bloomberg affair—which were not covered by the committee. So I assume that we got the rest of it right.

Motion agreed.

Brexit: Reciprocal Healthcare (European Union Committee Report)

Motion to Take Note

6.21 pm

Moved by Lord Jay of Ewelme

That this House takes note of the Report from the European Union Committee *Brexit: reciprocal healthcare* (13th Report, HL Paper 107).

Lord Jay of Ewelme (CB): My Lords, I have the honour to chair the EU Home Affairs Sub-Committee, which produced this report, and I thank the members and staff of the sub-committee and our excellent specialist adviser, Tamara Hervey, for their support and advice. Perhaps I should say at this point that I have little doubt that if Gareth Southgate had known that, by losing to Belgium, England's next match in the World Cup would coincide with this debate, he would not have rested Harry Kane and the result of the Belgium match would have been different—but we are where we are.

I think that we would all agree that reciprocal healthcare is one of the great benefits of our European Union membership. We almost take it for granted that, when travelling, we can access emergency care free of charge, or that we can retire to another EU country and rely on continuing to receive care on similar terms to that offered by the NHS. But, as in so many other areas, Brexit means that we now have to go back to the drawing board.

This inquiry was launched last autumn, when the overriding concern of our witnesses was over the status of UK and EU nationals who had already exercised their right to free movement—the 3 million or so EU nationals resident in the UK, and the more than 1 million UK citizens, many of them elderly, vulnerable or in poor health, who live in the EU 27. We heard compelling evidence of the fears felt by these people, most of whom, let us not forget, had no vote in the referendum.

Happily, the agreement set out in December's joint report, and embodied in the draft withdrawal agreement published by the Commission on 28 February, has allayed many of those fears. Perhaps that reassurance could have been offered earlier, but it would be churlish not to pay tribute to those who reached what was, in respect of citizens' rights, a largely satisfactory outcome.

Since the December joint report, the tone of the Government's statements about citizens' rights has been increasingly positive. This is exemplified by the Government's response to our report, published on 13 June, which begins with confirmation that safeguarding citizens' rights is a "top priority" for the Government. It also says:

"It is vital that NHS treatment is always available to those who need it",

including EU citizens. Taken alongside the Home Office's recent announcement about the process for acquiring settled status, this is good news. I take this opportunity to thank the department for supplying such a considered response, and thank the Minister, the noble Lord, Lord O'Shaughnessy, for the support he personally gave us throughout our inquiry.

So much for the good news. The more difficult issues relate to the long-term UK-EU relationship. Here the government response is thinner—perhaps not surprisingly, given that a White Paper on the future relationship is expected next week. However, it restates the Government's wish to retain in any future agreement the key benefits of reciprocal healthcare. These are described as: first,

"the rights of UK state pensioners who retire to the EU (and vice versa) ... to benefit from a reciprocal healthcare scheme";

secondly,

"the rights of UK residents to continue to receive needs-arising treatment in the EU under the EHIC scheme (and vice versa)";

and, thirdly,

"the rights of UK residents to be able to receive planned treatment in an EU Member State when this is pre-authorised by the UK (and vice versa)".

That list begs a few questions, which I hope the Minister will be able to address at the end of the debate.

The over-arching point is that contained in paragraph 75 of our report. Reciprocal healthcare rights in the EU do not exist in isolation; they exist to remove barriers to the free movement of people. So it is difficult to square the department's laudable ambition to maintain such rights with the Government's overriding objective of bringing free movement to an end. The government response, at page 9, states:

"Freedom of movement is ending but there will continue to be migration and mobility between the UK and the EU after the UK leaves".

That is the crux of the issue and, while I acknowledge the Government's point that there are agreements covering access to emergency healthcare with other countries, such as Australia and New Zealand, those agreements are simply not comparable in scope or depth to the comprehensive arrangements in place in the EU and the EEA.

I fully support the Government's underlying goal, but I can almost hear the accusations of cherry picking that will be made when the Government propose continuing UK participation in this specific component of the free movement framework. How will the

[LORD JAY OF EWELME]

Government address such concerns? It is also notable that, in the passage I have quoted, the Government do not refer to the S1 and S2 schemes as such. They refer only to UK state pensioners, who are the primary beneficiaries of the S1 scheme, but the scheme is more widely drawn than that, covering, for instance, posted workers. Later in the response, however, the Government state that they will,

“seek UK participation in the EHIC, S1 and S2 schemes as a non-EU Member State”.

Can the Minister confirm that the Government will seek to replicate the full scope of the S1 scheme in any future agreement?

There is also the unfinished business of onward free movement rights. As things stand, UK citizens also resident in an EU 27 country will, under the terms of the withdrawal agreement, have their reciprocal healthcare rights protected, but they will lose those rights if they move to another EU state. That may not be an issue for UK pensioners who have retired to Spain, but it is a serious issue for UK citizens of working age who are pursuing careers and raising families in the EU.

The government response identifies this as an important issue, and underlines that the UK “pushed strongly” for it to be included in the withdrawal agreement. I should add that the European Parliament has also lobbied strongly for onward free movement rights for UK citizens to be guaranteed. The logic of the Government’s position, I think, is that it would be addressed in the context of proposed UK participation in the S1, S2 and EHIC schemes. Is that correct, or do the Government envisage a separate agreement specifically relating to UK citizens already resident in the EU—a sort of “citizens’ rights plus” agreement?

We have a long way to go and time is short. The agreement last December was a key milestone, and I hope the Minister can confirm that there will be no back-tracking on citizens’ rights. But, since March, when the last iteration of the draft withdrawal agreement was published, progress seems to have ground to a halt. We all hope that next week’s White Paper will get us back on track but, if it is to do that, it needs to be realistic, detailed and specific. No doubt, that is what the meeting on Friday at Chequers will be discussing. Simply restating the Government’s desire to maintain the status quo on reciprocal healthcare, without acknowledging the legal and political challenges—and suggesting ways to overcome them—will not be enough.

I do not expect the Minister to divulge the details of the White Paper this evening, but I hope he will at least persuade us that the Government are approaching their task in the right spirit. I beg to move.

6.31 pm

Lord Ribeiro (Con): My Lords, I thank my noble friend Lord Jay—I use that term advisedly, as he chaired our committee with great skill—for securing and introducing this debate.

It is clear that the major issue still to be resolved in the Brexit negotiations is the border arrangements between Northern Ireland and Ireland. From a medical perspective, that border does not exist and healthcare has been freely exchanged for some time. Indeed, it predates the UK and Ireland joining the EU.

In my role as secretary of the Association of Surgeons of Great Britain and Ireland in the early 1990s, I met a young trainee surgeon in Dublin who was blazing a trail for the adoption of laparoscopic surgery for gall-bladder disease and hernia repairs. He subsequently transferred to the Central Middlesex Hospital as a consultant general surgeon and, soon after, was invited to become professor of surgery at St Mary’s Hospital in London. That surgeon was the noble Lord, Lord Darzi, from whom we will hear more on Thursday when he presents the debate on the NHS at 70.

Free movement of people allowed many surgical trainees to gain experience of laparoscopic surgery in Ireland. This was to the benefit of the UK, which was a little slower to adopt the technique of laparoscopic cholecystectomy. Free movement is a two-edged sword and, as our report demonstrates, children in Belfast have benefited from having their cardiac surgery performed in Dublin after the service ceased in Belfast in 2015. They are now in the all-Ireland children’s heart surgery centre.

Here I must declare an interest. When I was chairman of the Independent Reconfiguration Panel, we reviewed the report of the Joint Committee of Primary Care Trusts on children’s heart surgery in England. The report was called *Safe and Sustainable* and was published in 2012. It proposed a mandatory standard of four full-time surgeons and 400 paediatric surgical procedures per centre, driving a need for reconfiguring services. We concluded that centres providing surgery and interventional cardiology must have,

“at least four full-time consultant ... surgeons”,

to provide,

“comprehensive ... round the clock care, training and research”.

Although the Joint Committee of PCTs found the unit at the Royal in Belfast safe, it was not sustainable. The decision to centralise on one site in Dublin justifies its recommendations at the time.

In our report on reciprocal healthcare, we noted that there were probably as many people using directly agreed services through bilateral arrangements as there were using the EHIC, S1, S2 or patient rights’ directive. Services across the border serve both communities and reach enough patients to achieve economies of scale, and make it possible to recruit consultants to work in rural areas and communities which, on their own, would not justify a consultant appointment. I can testify to this, having visited Northern Ireland as president of the Royal College of Surgeons and seen the services provided at that time.

We also noted that joint services included oral and maxillo-facial services and a radiotherapy centre at the Altnagelvin Hospital, which opened in 2016 and was co-funded and co-planned by both jurisdictions. This form of co-operation would be threatened by a lack of agreement in the run-up to Brexit. One of our witnesses, Ms Bernie McCrory, described how co-operation in the ENT services had led to improved access to healthcare on both sides of the border. As is quoted in our report, she said:

“Children were waiting for maybe four years for their first appointment if they had hearing difficulties, with all of the problems that that would have thrown up education-wise and so on. There was a very robust ENT service in the southern trust in

Northern Ireland where we had four ENT surgeons working on a rota. The EU money allowed us to employ two more ENT surgeons. The surgeons rotated into the south of Ireland, into Monaghan, where they did out-patient and day-case work. Then the patients travelled to Northern Ireland, to Craigavon and Daisy Hill Hospitals in the southern trust, to receive more complex surgeries that were not possible in a small rural hospital ... [In 2016] 155 patients travelled from the south of Ireland to Northern Ireland for complex surgery, but the consultants who travelled down to the Republic saw over 2,000 patients in both out-patient and day-case procedures”.

We also heard evidence of how patients’ lives have been saved because of free and open access to emergency services across the border. They made the case for not returning to the bad old days of the Troubles when ambulances would park on one side of the border while the patient was transferred across to another ambulance on the other side. The Belfast agreement took years to broker and cross-border healthcare was described as one of the success stories of the Good Friday agreement. Surely nothing should be done to jeopardise this agreement. I know that my noble friend the Minister and the Government share this view.

The December joint report acknowledges the importance of these cross-border arrangements on health and notes that,

“the UK and Ireland may continue to make arrangements between themselves relating to the movement of persons between their territories (Common Travel Area)”—

the CTA predates our EU membership. We urge the Government to avoid such a hard border for patients and the health professionals who treat them. The continued access under the CTA to emergency, routine and planned care must continue if we are not to destabilise healthcare in the border areas. It is therefore not surprising that our report asks for healthcare to be treated as a priority in the negotiations on the island of Ireland, and the future relations between the EU and the UK.

In parallel to this report, we also took evidence on the impact of leaving the Euratom treaty and how this would affect the movement of radioisotopes, which we rely on for diagnosis and therapeutic treatments. There are some 700,000 nuclear medicinal procedures per year in the case of technetium-99m, which is used in 80% of all diagnostic procedures. We flagged up the importance of developing a new generation of alpha and beta-emitting isotopes for cancer treatment to mitigate any possible interruptions to treatments through delays at the ports, mindful that some radioisotopes have a short shelf life. I would like to ask my noble friend the Minister what the UK is doing to accelerate cyclotron production, in addition to the proposed new plant by Alliance Medical, which the Minister referred to in his letter dated 1 March to the noble Lord, Lord Jay.

Another form of treatment is proton beam cancer treatment. This begins at the Christie hospital in Manchester this August and is a first in the UK, with the University College Hospital in London following in 2020. Hopefully, this will prevent patients such as Ashya King being transferred from Southampton to Prague for treatment—if your Lordships recall, that caused quite a hullabaloo in this country. Can my noble friend say when we can expect more of these to mitigate the impact of leaving the EU and in the event

that the S2 arrangements fail to be honoured? After all, nothing is agreed until everything is agreed, but it is difficult to see how we can secure reciprocal healthcare while we continue to oppose freedom of movement of people from the EU, as my noble friend pointed out.

6.40 pm

Baroness Janke (LD): My Lords, it is a privilege to speak to this report. I pay tribute to the noble Lord, Lord Jay, and to his diplomatic skills in putting such a positive face on yet another report on Brexit, which again faces us with very worrying findings. I also thank the committee members and staff for their contributions; the staff provided us with very high-quality support.

In the words of one of our witnesses, Raj Jethwa, director of policy at the BMA,

“the best situation is one in which you are able to replicate or mirror as closely as possible the current reciprocal arrangements”.

So for many people it is a something of a “mad riddle”—to quote another recent discussion of Brexit—to understand quite how so much time, money and effort are being devoted to achieving something as close as possible to what we have already. Worse still, having taken part in this inquiry, I realise that lots of people simply have no idea of the risks ahead in healthcare post Brexit.

I add my thanks to the Minister, who has clearly attempted to reassure us and has put quite a lot of time into doing so. As such, I do not doubt his motives in any way; I am sure he wants to achieve the best possible solution. The report, however, provides us with a clear picture of the enormous benefits that have accrued to us as members of the EU.

There are the four routes to healthcare in the EU. First, the European health insurance card allows freedom of movement and access to healthcare wherever we might be. For holidaymakers and workers alike, there is no problem in accessing care or medicine. Secondly, the S1 scheme for people who live in the EU provides a simple, easy, accessible system. I am old enough to have lived in Europe before the EU. The system that existed before was so complicated and difficult that many people came home to the UK to get treatment where they could, rather than try to access it in Europe. Thirdly, there is the S2 scheme, which entitles British people to be referred to a specialist provider for treatment. Fourthly, the parent’s right directive gives British people the right to access high-quality treatment in the EU, particularly that which is unavailable in their own country, and to have the cost reimbursed. We often find that cheaper treatment for UK residents can be found in the EU than in the NHS. The average cost per pensioner has recently been calculated at €4.173 in Spain, as against £4.396 under the NHS, so there is even a savings benefit.

The noble Lord, Lord Ribeiro, spoke about Northern Ireland. I, too, was particularly moved to hear of the improvements and not just the peace dividend but the health dividend that has resulted from cross-border working, close co-provision and co-planning and, on an island as sparsely populated as Ireland, the absolute need to access high-quality healthcare, which had not been available before. The noble Lord also talked about children waiting four years for ear, nose and

[BARONESS JANKE]

throat treatment, with all the ensuing difficulties that that entailed for their development. So there are enormous benefits.

I welcome the joint report, which tells us that the Government want the common travel area to continue, and the assurances that there will be no hard border. However, this gives rise to quite a few questions. I am sure that many people I know are unaware that the EHIC system is even at risk, but if it does not exist after March, can the Minister tell us about some of the issues that people will face over insurance? In the report, the insurance industry tells us that it is not completely prepared for a major impact of this kind after Brexit. How can families deal with this? What will the cost be for pensioners and people with long-standing illnesses? How will they be able to afford insurance and how much more will their holiday cost?

If we are to keep the common travel area—I understand that, as people say, nothing is agreed until everything is agreed—how will it happen? How exactly will this work with the red line of no freedom of movement and with the Government saying, as the Minister said yesterday, that there will be no barrier between Ireland and the EU? People need confidence; they need to understand what is going to happen and they need to make their own plans.

We heard Simon Stevens on “The Andrew Marr Show” on Sunday saying that the NHS is now planning contingencies for a no-deal scenario. This was one of the things we were assured: that there will not be a no-deal scenario. However, when we hear that the NHS is planning for this, it must raise all sorts of worries. The Government need to come clean with people, let them know what the risks are and let them understand what we are facing. All these things take time to resolve. They cannot be changed overnight or a magic wand easily waved so that everything will be as it was before. People need to know this. There is a huge lack of trust as these effects seem to come out slowly and have to be dragged out, whereas if people were able to understand that there were these risks, they could make their own plans for them. As the clock ticks, we can see that there is an urgent need for the Government to lead and reveal their plans; to make clear the extent of the shortfall in healthcare; and to let members of the public know what they can expect in terms of healthcare after March and after Brexit.

6.48 pm

Lord Balfé (Con): My Lords, I begin by thanking the chairman and the members of the committee, of which I am not one, so I hope my intrusion will be forgiven.

On Thursday your Lordships will debate the 70th birthday of the NHS—it is just slightly younger than I am. Evidently it is one of the great post-war success stories but 45 of its 70 years have been spent inside the European Union. Over those 70 years, we have seen a continuing internationalisation of medicine and Europe working together more and more. I spent some 25 years in the European Parliament and represented the great teaching hospitals of Guy’s and St Thomas’ and had dealings with them from time to time. There was never a straightforward medical role for the European Union, but it was certainly involved in medical priorities.

The NHS is probably the best-loved child of the Attlee Government and probably a beneficial outcome of the Second World War. Throughout the Second World War, the first thing that people realised was that you had to have an efficient health service. You could not have people bombed out of their houses without adequate medical care. The predecessors of the NHS—people like Ernest Brown, the wartime Health Minister—did a lot to set down the parameters within which the health service has existed.

As we know, it is quite different from continental health systems. Having had a residence in Brussels for the better part of 40 years, I have had dealings with both the Belgian and French systems, which are pretty good and comprehensive. We see a lot of figures and tables, and I noticed one this morning in which we are just behind France in what we spend. However, they seldom take account of the insurance costs and the cost of running the insurance schemes. Every time you go to the doctor in Belgium, you do not pay much but you generate a lot of paper. You fill in a form; you part with €40; the doctor fills in a form to claim back the money; then you fill in a form to claim back about €35 of the €40 using yet another form which the doctor has given you. I am sure that the Minister will be aware of the cost of running an insurance-based scheme. It is certainly a factor which we need to keep in mind when we look at European schemes and how we can benefit from them. One direct benefit from the European Union that I was involved in was its funding of videos which were made by doctors at Guy’s Hospital in London who were doing certain operations, mainly on joints. These were then used to teach doctors in Portugal. It was remote learning of a kind which would now be done more easily with Skype, but even in the 1980s we had reciprocal healthcare and that has been quite a success story.

The NHS itself is a success story and one of the reasons for this is that the middle class supported it. It is a universal service and middle-class intervention has been quite crucial. This all leads me to the point that there is a lot of concern about Brexit and a desire that it should not impede the rights of citizens. If it does, there will, to put it crudely, be a lot of trouble. Europe is far too small not to have reciprocal healthcare arrangements. They are an absolute necessity. On page 6 of the government response to the report it states:

“The UK Government and the Commission have stated that providing certainty for citizens was a priority and we believe it would be unlikely for any deal on citizens’ rights agreed early on to be reopened”.

However, recommendation 4 states quite clearly that, “nothing is agreed until everything is agreed”,

as we keep learning. In other words, it may be unlikely to be reopened, but it will be if there is no agreement. Leaving the EU without an agreement, as is the wish of some of the more extreme supporters of Brexit, would mean no healthcare cover for UK citizens abroad or for EU citizens here, presumably. I am quite sure that there would be a scramble to get some emergency measures in place, but that is not the best way of making public policy.

The noble Baroness, Lady Janke, referred to the interview with Simon Stevens on Sunday, repeated in the *Times*, which said:

“NHS prepares for no-deal drug and doctor shortage”.

The article outlined the problems potentially facing the NHS, including a worst-case scenario of hospitals running out of medicines in just two weeks, and the fact that it is now planning. Apparently 37 million packs of medicine arrive in the UK from the EU every month, with 45 million going back the other way. There is a very big common market in drugs. When Simon Stevens, CEO of NHS England, says that “extensive work” for a no-deal scenario is being done in collaboration with the pharmaceutical industry, I need to ask the Minister when he will be in a position to tell us about the nature of this extensive work. Although it is not his direct responsibility, has he been in contact with the devolved Administrations and are they also doing “extensive work”?

Paragraph 11 of the report’s conclusions asks the Government,

“to confirm how it will seek to protect reciprocal rights to healthcare of all UK and EU citizens post Brexit”.

In their response, the Government state that they want,

“a wider agreement with the EU on reciprocal healthcare into the future”.

Of course we do, but how are we going to get this alongside ending free movement? This is all part of a package. What is the status of current negotiations in pursuit of this wider agreement? Are they currently ongoing, and which department is in the lead—DExEU or Health and Social Care? Again, are the devolved Administrations involved, and how are they being co-ordinated?

Finally, it is clear from the briefings that I and other noble Lords have received that there is still much work to be done with regard to the position of reciprocal healthcare if the Government carry out their intention to end free movement. We need to prioritise access to reciprocal healthcare and we need a realistic assessment as to whether ending free movement is necessary or desirable. Simon Stevens has drawn attention to the fact that 10% of NHS doctors and 7% of nurses are nationals of other EU member states. This supply is apparently drying up because they do not have the confidence to come and work here. A solution is clearly needed, as is devising a retention strategy for the staff who are here.

I will make a prediction to the Minister. Being a bit of a cynic, I have said all along that Britain will end up in a Norway situation. We will be within the single market; we will have free movement, maybe with a minor concession at the edges; we will pay a very large bill; we will need extra staff in our embassy in Brussels to keep an eye on things. We will be represented at none of the meetings but will be subject to all of the decisions. That is the direction in which we are going. I finish with an absolutely true story. A year ago, I was in a ministry in Norway, talking to the Minister. He said: “You are going to find it is really difficult. We find it difficult in Norway, but at least we have got a direct line to Sweden and we are roughly the same size

as them. Sweden and Norway have a long tradition of working together”. He went on to say: “The only other English-speaking country you have to fall back on is Ireland. Your relations are not quite as close with them, and there are a lot of problems that you are going to have to solve”. When we are outside the tent, so to speak, we are going to have far more difficulties in getting influence than Norway. I hope that I am wrong, but I fear I am right.

6.59 pm

Lord Ricketts (CB): My Lords, I have no Nordic stories to offer in succession to the noble Lord. I had the privilege of joining the sub-committee part way through this inquiry, under the chairmanship of the noble Lord, Lord Jay. I support the report: it is very good and clear, and the staff did a very good job in summarising a highly complex area in a very readable way. I am sure that the report is being read with great care by a lot of British people in the EU and by EU citizens here.

As other speakers have said, there is still a lot of uncertainty for British citizens travelling to the EU after Brexit day and for EU citizens here. The Government’s response makes clear the aspiration to be clear about what the future will hold, but it will be important to turn those aspirations into agreements as soon as possible.

I want to follow the noble Lord, Lord Balfe, in concentrating on the 1.2 million British nationals living in the EU who have settled there, and in particular the 190,000 pensioners. These are not statistics; they are people who have organised their lives in good faith on the basis that they can go on counting on access to healthcare, particularly under the S1 scheme. The report brings out very clearly that the scheme is a lifeline for many British pensioners, particularly those dependent on regular treatment: for example, diabetes sufferers, but also many others.

I have had discussions with the British expatriate community, particularly in France. I know that there is a broad welcome for the agreement set out in the joint report that S1 rights should continue for those who have them now. Understandably, I think that those who are dependent on them will not relax until these rights are set out in legislation. Many of them are vulnerable and unable to adapt their lives to new circumstances at short notice.

So what are they to make of demands by prominent Brexiteers, including one in the *Daily Telegraph* this week who said:

“At Chequers, the Prime Minister must stick to her ‘no deal is better than a bad deal’ mantra”?

For many British pensioners dependent on S1 healthcare arrangements, surely no deal would be a catastrophe, for the reasons given by the noble Lord, Lord Balfe. If the S1 scheme lapsed in a no-deal scenario, many such pensioners would have no alternative but to try to sell their houses for whatever they could make and return to the UK, where they may not have roots, in a scramble. I have heard it said that “no deal is better than a bad deal” is an important negotiating card, but I hope that those who brandish it will bear in mind the real anxiety that it is causing to many British people abroad and, no doubt, to many EU citizens here.

[LORD RICKETTS]

The Government's reply to the report refers in a rather delphic way to,

"developing contingency plans to minimise disruption for patients", in the case of a no-deal scenario, and,

"building our understanding of the systems, processes and infrastructure needed in Member States to prioritise the safety of UK and EU patients".

I think that that will be of only limited reassurance to the many British and EU citizens whose lifetime plans would be turned on their head if we found ourselves in a no-deal scenario. Of course, we all hope that it will not come to that, but I hope that the Minister will be able to give us a little more detail on what the contingency plans are for a no-deal scenario in respect of reciprocal healthcare.

7.03 pm

Lord Kirkhope of Harrogate (Con): My Lords, I will first say what a great privilege and pleasure it has been for me to serve on this sub-committee under the chairmanship of the noble Lord, Lord Jay, and to debate and discuss this matter with some excellent witnesses from a broad range of backgrounds. My only knowledge and expertise in the health field is that I was a member of what was then called Northern Regional Health Authority back in the 1980s. In doing that job, I learned an enormous amount about the excellence of those who work in our health service, both then and, I know, since.

I have also seen the great changes that have taken place since the 1980s, in terms not only of healthcare but of international relations between our health professionals and those in particular in the EU. I shall not go over the ground so excellently covered by my noble friend Lord Ribeiro, but we have reached a point where the National Health Service in this country is highly dependent on those who come to us from other European countries. Whether or not that is a direct point on freedom of movement is a matter which no doubt the Government will want to consider—but, in all my experience and from my connections still in the health service, I am aware of the considerable problems that we are already starting to experience with either potential members of staff who are not confident in making applications because of the lack of clarity as to their future positions if they come over here to work or with those who have worked in the health service and have become unhappy about their future prospects for remaining in that service.

I agree with the points made by the noble Lord, Lord Jay, about the Government's reaction to this report. I pay tribute not only to my noble friend the Minister but to his department for seeming to have reacted to our report in a better way than have, sadly, one or two other departments to what we suggested in other reports in other fields. It has been a positive reaction. However, of course, good intentions are one thing—there are plenty of those in evidence in the Government's response—but delivery in a way that deals with the issues that we have raised is entirely another matter. Not being the major issue in the eyes of the Government, and in the forefront of the media, may or may not be a good thing. It may be a good thing in the sense that we hope that negotiations are taking place which will secure the future reciprocity of healthcare

satisfactorily—or it is possible that, because there is not the pressure or publicity so far, the Government have not yet have negotiated these things or set about them properly. I hope that the former is the case and not the latter.

I will raise one or two points about current relationships and how we need to improve things in a post-Brexit situation. We are talking as if there is a free healthcare arrangement for everybody around Europe wherever they may be at any time, but, more recently, we have had arrangements of cross-charging between the EU states and ourselves. From the evidence that we heard, we learned that the performance of the National Health Service in collecting moneys from the EU for the treatment of EU citizens has been, to say the least, extremely patchy. I am not convinced that, institutionally, the health service has equipped itself properly to deal with that matter. My noble friend Lord Balfe spoke about Belgian administration and paperwork. It seems that we are almost at an opposite extreme in some parts of the health service, where no one appears to be able to take responsibility for making the charges that they ought to make against other EU countries. As a result of that, the health service has been denied resources that it ought to have had and which it desperately needs. In the event of Brexit proceeding in the way planned, but with some safeguards in this field, to what extent will my noble friend's department prioritise the ongoing collection of the moneys that the health service is entitled to have from our European friends?

Following on from that, there is an issue regarding educating the public. It is amazing that, even now, with the very close co-operation and arrangements that are in place, a considerable number of people in this country who travel in Europe are unaware of their safeguards, protections and entitlements in respect of health. The result is that there are quite a number of insurers which, in my opinion, take advantage of that situation. There are also many people who pay money to get insured in areas where, to be honest, they do not need to have that insurance. What concerns me is that if, post Brexit, we do not educate people clearly as to what they will then have to protect themselves from by insuring, it will result in considerable extra expense for British people—and, I would guess, probably also for EU citizens in reverse. It would benefit only the insurance companies, which may well take advantage of that situation.

Finally, I will comment that we have really achieved an enormous amount over the last few years. Like my noble friend Lord Balfe, I had the honour of serving in the European Parliament for a considerable time. I never intended to be there for 17 years, and the time flew. Throughout it, what impressed me most about our NHS, which we are so proud of, as we should be, was that many of the developments and innovations that came into our health service have been shared with our European friends. That has been recognised in the European Parliament, and no doubt here also. Nevertheless, it has been a big issue. The British component—leadership in so many fields of innovation, including in the health field—is something which our European neighbours would be loath to lose. Similarly, we should be loath to lose those connections. That is why I hope that, in response to this excellent report,

the Government will at least determine themselves to conclude negotiations that do no damage to the people of our country, or indeed any European citizen, in the field of health.

7.11 pm

Baroness Pinnock (LD): My Lords, it has been a real privilege to be part of this important investigation and I thank the noble Lord, Lord Jay, for his consummate skill in leading us and guiding the committee through to such clear recommendations.

It is no surprise that many noble Lords have focused on reciprocal healthcare as it affects the island of Ireland. The most striking testimonies I heard as a member of the committee were from healthcare professionals from Ireland. Our witnesses came from both Eire and Northern Ireland and they spoke as one, with passion and very deep concern as to the future of healthcare in their countries. As a direct consequence of the Good Friday agreement, the common travel agreement and the EU's positive support, health provision for the communities on both sides of the border has been significantly improved. We were told of the situation, before all these arrangements came into play, of ambulances stopping at the border to transfer patients. That is a thing of the past and it needs to remain a thing of the past.

We have heard from the noble Lord, Lord Ribeiro, about the joint commissioning of healthcare. Like him, I was very taken by the example we were given about children who suffered from hearing difficulties and the arrangements that were made for ear, nose and throat operations as a consequence. Children were waiting up to four years in the north for their first appointment. Following the EU funding which enabled more ENT surgeons to be employed, those surgeons spent some of their time in the south and some in the north. What a wonderful example of the Good Friday peace agreement it is that children are cared for and get the operations they need in a more timely way. We are putting that at risk. The Royal College of Physicians of Edinburgh warned that Brexit could result in "substantial disruption" of health services. We also heard a witness statement, which I found moving, saying that patients' lives had been saved because of free movement across the border and free access to both jurisdictions' healthcare.

Unfortunately, I am sorry to say, the Government's response to the committee's report is far from convincing or reassuring. While the Government are clearly committed to retaining the enormous benefits to the healthcare of the people of Ireland there are no hard and fast proposals, let alone plans, to provide any comfort that they are determined to find a solution that retains—and continues—the significant cross-border joint commissioning of healthcare, even if doing so means that one of the famous red lines has to be erased. The Minister has given us a good and full response. However, can he give us any assurance that the priority for health provision in Ireland will be the health and well-being of all its people, regardless of other conflicting political demands?

The second aspect on which I wish to focus is that of the EHIC arrangements. Millions of UK residents take advantage of the insurance that EHIC provides when they take a holiday in an EU member state. The

card provides peace of mind to holidaymakers and travellers that they will be able to access healthcare, wherever they are in the EU, if they have an accident or become ill. The Government continue to try to reassure us that they want the EHIC provisions to remain. However, doubts persist, certainly in my mind, because we are constantly reminded that nothing is agreed until everything is agreed. The committee investigated the potential consequences of the loss of the EHIC arrangements. The travel insurance industry told us quite clearly that the only replacement will be higher travel insurance costs. One figure we heard—it was a guesstimate—was that insurance may rise by up to 20% without EHIC. As the report clearly states, for some people with long-term health conditions, insurance costs may well become prohibitive.

In the Government's response to the report, they state that they will seek continued participation in the EHIC scheme as a non-member state. However, they say:

"The exact nature of these arrangements is a matter that will be discussed during the next phase of negotiations".

Yet people are already planning holidays for 2019; some retired people take a long period away from the rigours of a UK winter in the warmer and sunnier climates of southern Europe. Their contracts will be signed in the next few months and certainly before the proposed date for Brexit. What are these travellers supposed to do? Should they rely on the continuation of the EHIC arrangement or take out full travel insurance, which will cover the costs of any ill health eventuality? We simply do not know. The Government have a responsibility to provide advice on this matter.

All in all, the Government have acknowledged the soundness of the judgments made on many issues in the report. I am very pleased about that. Unfortunately, they have failed to provide what I would call the copper-bottomed assurances that travellers require, so that they know whether the Government's Brexit plans will result in higher travel insurance costs and, for the people of Ireland both north and south, whether their cross-border health provision can continue and expand. These are serious questions and they require serious answers. I look forward to the Government's response today from the Minister and, more significantly, to when clarity is provided—I hope—in the White Paper to be published next week.

7.19 pm

Baroness Thornton (Lab): My Lords, I join other noble Lords in congratulating the EU committee on its report *Brexit: Reciprocal Healthcare*. I suspect it was no accident that the committee turned its attention to this matter early on in its considerations about the effects of Brexit. I congratulate the Government on turning around their response in three months. This is better than the last healthcare response, which took a year, so we should be pleased and congratulate the Minister. I thank the BMA and the Nuffield Trust for providing the most up-to-date information.

I proposed and supported amendments on these matters during the passage of the Brexit Bill most recently considered, so I looked at the record to see how it compared with the answers that the Government have given. I spotted some advances but, I am afraid, not many.

[BARONESS THORNTON]

In preparing for this debate, I learned from IPSOS Mori that Brexit has now joined the NHS as the top two issues the public are most concerned with—for 46% and 44% of people respectively. Today we have a confluence; it seems that as time goes on, millions may be justified in their anxiety about both Brexit and health. We heard, as several noble Lords have mentioned—including the noble Lord, Lord Balfe, and the noble Baroness, Lady Janke—that the head of NHS England is preparing plans for the supply of medicines in the event that the UK crashes out of the EU without a deal. I suppose the first question, as reflected in this report, is what happens after the implementation period? What planning is being done for a no-deal scenario for reciprocal healthcare? Indeed, the noble Lord, Lord Ricketts, mentioned the human cost of that.

Two years for implementation is not so long. Just think how the last two years have flown since the Brexit vote, with so little progress. It is, of course, important, as other noble Lords have mentioned, that the negotiations so far have enabled the Government to achieve their aims for reciprocal healthcare in the first and implementation phases of negotiations. These include access to the European health insurance card for those visiting the EU on exit day and continued access to the S1 scheme for existing retirees living abroad. But does the Minister agree that the next phase of negotiations needs to secure ongoing access to EHIC and reciprocal healthcare arrangements, either through retention, or comparable replacement of existing reciprocal healthcare arrangements with the EU after Brexit?

Some 27 million people hold a UK-issued European health insurance card and 190,000 UK pensioners living elsewhere in the EU are registered to the S1 scheme. The Nuffield Trust has calculated that, if the 190,000 UK state pensioners signed up to the S1 scheme and, living within the EU, needed to return the UK to receive care, it would incur additional costs to health services of between £500 million and £1 billion per year.

This simultaneous increase in cost and demand would place even greater strain on the UK health and social care sector. There is some anecdotal evidence that indeed people are returning from France, Spain and elsewhere since the Brexit vote and the ensuing lack of assurance and clarity. Are the Government monitoring the numbers who are coming home already?

As reflected in this report, ending reciprocal arrangements may also require the application of existing cost recovery methods for non-EEA patients to EU and EEA patients in the UK, or the development of a new, alternative system. This could increase the complexity of the cost recovery process, so well described by the noble Lord, Lord Balfe, as well as the administrative burden on clinical staff. Does the Minister agree with the BMA's long-standing position that doctors and clinical staff should be able to devote their attention to treating patients and not to recovering the cost of care?

If the UK loses access to these arrangements, or fails to agree comparable alternatives, it could severely impact on the healthcare arrangements of UK and EU nationals and place additional strain on our already stretched NHS. Healthcare affects all of us who travel, work and live in Europe and, just as we might legitimately

expect post-Brexit that we can take for granted the supply of the most up-to-date, clinically approved medicine and remedies, we expect to continue to travel and work all over Europe and for our healthcare to be assured, without having to take out insurance. On a scale of 1 to 10, with 10 being the most likely, what is the Minister's best estimate of this being the case post the implementation period?

The ease with which people can continue to do what they are used to doing is what will colour how people will judge whether Brexit is succeeding and whether it has been worth while. In many ways, the most important recommendations in this admirable report, most of which I agree with, are those which concern clarity and transparency. Recommendations 5 and 6 concern free movement, and recommendation 11 asks if reciprocal healthcare will be included in the objectives set out by the Government, which we hope will emerge in a White Paper, with white smoke, some time next week.

This paragraph also concerns our children and grandchildren and their ability to work across Europe, which will be curtailed, as was so well explained by the noble Lord, Lord Jay. He said we have a long way to go and he is absolutely correct. The problem is, we have a long way to go but we do not have a great deal of time. I thank noble Lords for their usual high-quality contributions and I look forward to the Minister's reply.

7.26 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord O'Shaughnessy) (Con): My Lords, I begin by saying that I will try to be concise, as all Lords have been, but I want also to cover the many interesting and important points that have been made. I congratulate the committee and the noble Lord, Lord Jay of Ewelme, for his chairmanship and for clearly putting together a very good-quality piece of work, and congratulate all noble Lords who contributed through that committee and, indeed, in this debate.

We have discussed tonight how reciprocal healthcare arrangements help people to live, work and travel across Europe in the knowledge that healthcare access is not a barrier. They are especially important for elderly people and those with long-term conditions. They enable people to access treatments or give birth abroad, promoting choice and healthcare collaboration. They have other economic benefits as well, such as tourism and helping the NHS to manage demand.

That is why we believe as a Government that a reciprocal healthcare agreement between the UK and EU is in the best interests of all. It is worth stating that good progress has been made in negotiations so far, and that is one reason why we are confident that we will secure good reciprocal healthcare arrangements as part of our future relationship discussions. Many noble Lords have asked why we have not done more, or been able to promise more, so far. It has to be said that the rate-limiting step has been the Commission's mandate in what we were allowed to discuss and, indeed, in its insistence that nothing is agreed until it is all agreed. That was not our position, but the mandate the Commission gave to the Article 50 negotiating team. We have achieved as much as we possibly could within that mandate.

It is important to note—and many noble Lords have done so—that there is history in this area. The UK has a long-standing tradition of reciprocal healthcare agreements. My noble friend Lord Ribeiro pointed out that, for the last century, UK and Irish citizens have been able to access healthcare in one another's countries. Noble Lords have talked about the many powerful ways in which that co-operation brings benefits to the peoples of both countries.

Since the 1950s, the UK and its European neighbours have had reciprocal healthcare and social security agreements too. I will deal quickly with the point my noble friend Lord Kirkhope made about whether, during negotiations, we are always as good as we could be at securing the moneys that are owed to us; I think it is fair to say that historically, we have not been. It is something we are starting to do better. One example is that we are now able to flag immigration and entitlement status on electronic health records, so that doctors do not constantly have to ask for that kind of information; it can be logged and secured through these agreements.

The UK also has agreements with the rest of the world, including Greenland, the Faroes, the Balkans, Australia, New Zealand and many of our overseas territories; there are precedents, current and historical, for the kind of deal we are aiming to strike.

The Select Committee report rightly recognises the importance of reciprocal healthcare. It has been pointed out in the debate that the NHS currently provides healthcare to over 3 million EU nationals living in the UK and that there are about 1 million UK nationals who live, work and use healthcare in the EU.

The noble Lord, Lord Ricketts, rightly pointed out that about 190,000 UK state pensioners have chosen to retire in Europe, notably Ireland, France, Spain and Cyprus. I am not sure that Ireland is where you would go on holiday if you were after sunshine in the winter but you would certainly choose the other three. It is worth mentioning that this is not just about the number of people who carry EHC cards; 250,000 medical incidents affecting UK tourists are resolved via an EHC, and a further 1,500 UK residents travel for planned treatment via the S2 scheme. That is what is at stake.

Several noble Lords referred to the achievements to date. The first of those was the joint report agreed in December 2017, which covered the entitlements of those exercising their reciprocal healthcare rights on exit day. I shall go into more detail on that shortly.

Following the agreement in December, there was further agreement in March 2018 on the implementation period. That means that the rights secured through the negotiations so far will, once the implementation period is agreed, continue until 31 December 2020, providing more reassurance. It includes healthcare for pensioners and workers, as well as the EHC and S2 schemes, and nothing will change over that period.

Before turning to the impact on British citizens of the withdrawal agreement and implementation period, it is worth talking about the status of EU citizens living in the UK. That was raised by the noble Baroness, Lady Janke, my noble friends Lord Balfé and Lord Kirkhope, the noble Baroness, Lady Thornton, and others.

The Prime Minister has been very clear that EU citizens who have made their lives in the UK should be able to continue with their lives here. We have that agreement and, indeed, we now have a route for that. As noble Lords have commented, we have opened the settled status route, which provides a specific legal mechanism by which people can secure their status to live in this country.

I reassure noble Lords that the department was one of the first to act on this new route. We have written to all NHS trusts to make sure that the many staff whom they employ and whose work we value so much are able to access that route as quickly as possible so that we can secure their future in the NHS and social care system. We want to allay their anxiety and I hope that that goes some way to doing so. It is worth pointing out, as always, that there are more EU staff working in the NHS today than there were two years ago, and of course we hope that they will stay.

What does the withdrawal agreement mean for UK nationals in the EU? The noble Lord, Lord Ricketts, and the noble Baroness, Lady Thornton, talked about the state pensioners living in the EU. We have agreed that the S1 scheme will continue for that group so that they continue to be able to access reciprocal healthcare in the same way as they do now. To answer the question from the noble Baroness, Lady Thornton, we will of course look at data on whether there are returners, although we have not seen any evidence of them yet. It is also worth pointing out that this group of S1 beneficiaries will also be able to use an EHC to obtain healthcare if they visit other member states—the so-called onward rights.

More broadly, UK nationals living and working in the EU at the end of 2020 will be able to access healthcare on terms similar to those in place now under the implementation agreement, in line with the rights that we have agreed for EU nationals living in the UK.

Turning to the EHC and the S2 scheme, during the withdrawal agreement and implementation period discussions so far, we have not agreed long-term continuation of the EHC and S2 schemes for the reason that I gave. However, we have agreed that a transitional arrangement will ensure that people visiting the UK or the EU on holiday or for study will be able to continue to use their EHC while in that state of travel. People receiving planned treatment via the S2 route will be able to complete their course of treatment abroad, however long the treatment lasts, so that there will be no disruption to their care. We will also continue to press for the right of people covered by the withdrawal agreement to move to other member states—a right that we have been able to secure for pensioners under the S1 scheme.

Inevitably, the debate has focused on what the future relationship will look like. The Government have been clear about what we are seeking to achieve: the right of UK state pensioners who retire to the EU to access healthcare in those states; full ongoing UK participation in the EHC scheme; and the right of UK residents to receive planned treatment in the EU, when the NHS authorises it.

[LORD O'SHAUGHNESSY]

The noble Lord, Lord Jay, asked: why S1 rights? I think that he has in mind, for example, frontier and posted workers. It will inevitably depend on wider agreements about mobility and security rights. There is a co-dependency between those citizens' rights and the more extensive application of the S1 right to healthcare. However, the other elements of the reciprocal healthcare rights do not have the same co-dependency with the wider citizen rights.

The noble Baroness, Lady Janke, my noble friend Lord Balfé, the noble Baroness, Lady Thornton, and the noble Lord, Lord Ricketts, also asked about the no-deal arrangement. Indeed, if noble Lords did not mention it, it is certainly on everyone's mind. The committee obviously heard about and described the anxiety that there would be if people could not easily access healthcare abroad, and it suggested solutions that we could adopt, such as bilateral agreements. I reassure noble Lords that it is our intention to secure a deal, given the commitment to protect the interests of citizens from both sides in the negotiations. I should also reassure noble Lords that the department is doing everything it can and everything necessary to avoid any kind of cliff edge. There is a programme of work that aligns with the ideas already posed by the committee in the unlikely event of a no deal.

We are of course planning for all scenarios. I think that British citizens would find it bizarre if we did not prepare for all eventualities, not just on reciprocal healthcare but on other health issues and across the piece. I am afraid that noble Lords will have to forgive me: this is not the time for me to go into further details about what those no-deal preparations look like, although of course at some point in the future we will have more to say. I shall resist the entreaty from the noble Baroness, Lady Thornton, to give her probabilities—I am terrible at betting, so she would not want to trust me anyway.

Ireland has obviously been a heavy feature of the debate and the report. My noble friend Lord Ribeiro spent much time highlighting the benefits of that relationship, and the noble Baronesses, Lady Pinnock and Lady Janke, talked about it as well. As somebody who has an Irish connection, it is something that features heavily in my, as well as the Government's, thinking. I reassure noble Lords that the UK and Ireland have agreed that we will protect healthcare access and co-operation for our populations whatever the outcome of the EU exit. That would take place under the common travel area and other agreements that we have made together.

The discussions are progressing well. I recently met my counterpart, the Irish Health Minister, Simon Harris. We are both satisfied by the progress in this area. I reassure noble Lords—particularly the noble Baroness, Lady Pinnock, who was very interested in this matter—that it is a priority for us and that we are making good progress.

My noble friend Lord Balfé asked about the devolved Administrations. We are of course engaging with them all the time and making sure that they are involved in the decision-making. As we go forward, we will be seeking a deal that works for all parts of the UK, and it therefore needs to work for and be agreed by the devolved Administrations too.

The noble Baroness, Lady Janke, made some important points about insurance, as did the noble Baroness, Lady Pinnock. We are continuing to engage with the Association of British Insurers. Clearly, the exact outcome and its implications for travel insurance will depend on the future relationship, we agree. But for the reasons that I have said, I will not go into the detail now of preparations for no-deal scenarios. I can tell the noble Baronesses that we have that open relationship and are having discussions, and we understand exactly what is at stake here.

Finally, my noble friend Lord Ribeiro raised the issue of radioisotopes. It is a topic that we have discussed several times. He will know that we are investigating not only domestic production but making sure that there are customs arrangements and other arrangements such as trading arrangements to make sure that the supply of radioisotopes is not impacted in any way by the circumstances under which we leave the European Union. I am reassured from the work that has gone on in this House through our debates on the withdrawal agreement and the Nuclear Safeguards Bill that we have a proper understanding of how we achieve that. Noble Lords made a fantastic contribution to that work. Of course, as the noble Lord will know, regarding the proton beam, there is a centre open at the Christie and another one to follow, so we will be able to provide more of that therapy at home for UK citizens.

I thank the committee again for its fantastic work, the noble Lord, Lord Jay, for his expert chairmanship and all speakers. I think we are all agreed on what we want to achieve from these negotiations and why we want to achieve it. It is inevitably a complex task. The input of the committee is highly welcome and has been very productive and influential on our thinking as a department. I want to make sure that that is reflected as much as possible in the work we do and the proposals we make, whether in a White Paper or other routes. I hope that we will continue that dialogue so that we can make sure that concerns are raised and properly dealt with and we end up with an outcome that protects citizens' and patients' rights after we leave the European Union.

7.39 pm

Lord Jay of Ewelme: My Lords, I am extremely grateful to the Minister for his characteristically thoughtful and considered reply and to all those who have taken part in this evening's debate. I do not wish to detain your Lordships further this evening but I would like to say that the issues we have been discussing are not just abstruse. They may be abstruse and they may be complex and technical, but they affect the lives and livelihoods of enormous numbers of British citizens and citizens of other EU countries, including Ireland. Therefore, they need to be at the very top of the agenda of the Government in the very complex negotiations that lie ahead. I beg to move.

Motion agreed.

House adjourned at 7.40 pm.

Volume 792
No. 164

Tuesday
3 July 2018

CONTENTS

Tuesday 3 July 2018
