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Universal Credit and Child Tax Credit:  

Two-child Limit  

Question  

3.08 pm  

As asked by the Lord Bishop of Durham  

To ask Her Majesty’s Government what analysis they have made of the impact of the two-child limit on the per-child element of Universal Credit and Child Tax Credit payments on (1) child poverty, and (2) child development, for children under five years old affected by the policy.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, the Government are committed to supporting child well-being, and keep the impact of all their policies under review. This policy ensures fairness between those supporting themselves solely through work and those receiving benefits. Isolating the effect of the many individual policies on the income and well-being of children and families is, of course, challenging. Child benefit continues to be paid for all children, as well as an additional amount for any disabled children.

The Lord Bishop of Durham: I thank the Minister for her reply. May I push her further on the impact, specifically on child development? We all know that the first years of life are the most crucial for development and, therefore, the impact on life chances. Will the Minister commit to hearing the emerging stories of families with a third child who are being adversely affected by this policy?

Baroness Buscombe: My Lords, to be clear, on 28 June last year we published the first annual statistics related to the policy and have committed to do so annually. The Government have a broad range of policies which affect children and families across the tax and benefits system and public services. What makes a difference to child poverty is a strong economy, and I am pleased to inform the House that employment is at a record high, at 76.1%, while unemployment, at 3.9%, has not been lower since the 1970s.

Baroness Lister of Burtersett (Lab): My Lords, the Government’s own statistics show that families with three or more children are at much greater risk of persistent poverty. Given that it is clear from Written Answers to the right reverend Prelate that the Government have done nothing to monitor the impact of this policy on children’s well-being, how can the Government be sure that it is in the best interests of children, in line with the UN Convention on the Rights of the Child, which the Government claim guides their policies?

Baroness Buscombe: My Lords, as I have made clear, the Government will be publishing statistics on this policy annually. Children growing up in workless families are almost twice as likely as children in working families to fail at all stages of their education, so our welfare reforms are designed to help people get into work, such that there are now 665,000 fewer children in workless households compared with 2010. Of course we want child poverty to fall, and that is part of our in-depth policy development, which is ongoing.

Baroness Boycott (CB): My Lords, I thank the right reverend Prelate for raising the important issue of child poverty and development in relation to universal credit. We are the fifth-richest economy, but 4.1 million of our children live in poverty and 2.5 million of them come from families who cannot afford to feed them properly. This cripples their ability to grow and develop. Tomorrow the Children’s Future Food Inquiry, which is the first comprehensive investigation of children’s food insecurity, will be published. It details the devastating impact that has on children's emotional well-being, their attainment at school and their mental and physical health. What plans do the Government have to strengthen and expand policies which make healthy, nutritious food available to all families on any income, regardless of where they live?

Baroness Buscombe: My Lords, the noble Baroness’s question is across government, but it is important from our standpoint at the Department for Work and Pensions that we concentrate on lifting people out of poverty so that they can support their children and develop as role models. A child living in a household where every adult is working is about five times less likely to be in relative poverty than one in a household where nobody works, so we support parents into work. For example, the Government spend £6 billion on childcare each year, which is not reflected in our poverty statistics, to help parents go out to work, support their families and develop a responsible living situation where they can properly feed their children.

Lord Farmer (Con): My Lords, financial stability is important for healthy child development, but so too is relationship stability. The Government have replaced the family stability indicator with parental conflict measures, yet many divorces and separations take place in low-conflict relationships. Research shows that these are more damaging to children than when high-conflict relationships end. What are the Government doing to prevent family breakdown, not just reduce parental conflict?

Baroness Buscombe: My noble friend makes a good point. Although our welfare reforms—and, in particular, universal credit—are already transforming lives to lift children out of poverty and support parents into work, child development and family stability depend on so much more than financial stability and benefit.
payments alone. That is why the Government are, for example, helping local authorities across England train front-line practitioners to identify relationship distress, provide appropriate support and refer as appropriate.

Baroness Massey of Darwen (Lab): My Lords, as the Minister said, co-ordination across government is important. The Royal College of Paediatrics and Child Health suggested that having a strategy for children and young people’s health across the board would help improve effectiveness and co-ordination. Do the Government agree and what will they do about it?

Baroness Buscombe: There is no doubt that a cross-governmental strategy is incredibly important, and that is why we are working across government with our colleagues in the Department of Health and the Department for Education. Of course we want to see child poverty fall and child development improve, and we remain determined to tackle this. We will look at what more can be done to help the most vulnerable and improve their life chances by tackling the root causes of poverty, ensuring that children have the best possible start in life.

Baroness Janke (LD): My Lords, nearly half of children from lone-parent families are in poverty, due not to worklessness but to disproportionately high housing costs and low wages. What are the Government doing to ensure that these children, already suffering disadvantage, are not doubly disadvantaged by the continuation of the benefits freeze?

Baroness Buscombe: My Lords, a very important point in relation to universal credit is that when somebody is homeless, the first thing our work coaches do—through support, understanding and signposting as necessary—is ensure that that person and their children are properly housed. We then go to the next stage, to see how we can support them to ensure they can manage both in work and in looking after their children.

Baroness Meacher (CB): My Lords, the Minister will be aware that disabled children and their families are particularly penalised under universal credit. Does she accept that the lifelong prospects of those disabled children will be severely damaged by the loss to their families of something like £1,000 a year?

Baroness Buscombe: My Lords, I do not accept that disabled children in such families are penalised under universal credit. We spend more than £50 billion a year on benefits to support those with disabilities, including children. Let me be clear: we are making sure we do all that we can to support people, particularly children, through the introduction of the severe disability premium.

Education: Flexible Lifelong Learning

3.16 pm

Asked by Baroness Garden of Frognal

To ask Her Majesty’s Government what action they have taken to encourage flexible lifelong learning in higher and further education.

Viscount Younger of Leckie (Con): My Lords, in 2017 we committed £40 million to test approaches to tackling barriers to lifelong learning to inform the national retraining scheme. This includes £11.4 million for the flexible learning fund, supporting 30 projects to design and test flexible ways of delivering training. We also provide financial support for higher education providers and part-time learners. The independent review of post-18 education and funding is considering further how government can encourage and support part-time and distance learning.

Baroness Garden of Frognal (LD): My Lords, I declare an interest as a fellow of Birkbeck, with its historic remit for evening classes for those in work pursuing degree studies. Birkbeck and the Open University, which is celebrating its 50th anniversary this year, have both seen dramatic declines in adult learners since the Government’s policies that changed funding. Will the Minister agree that, for all the fine things he has mentioned, the Government’s response to the post-18 review of education and funding is the very best opportunity to tackle post-18 student finance, broaden learning options, encourage lifelong learning and make progression routes more obvious?

Viscount Younger of Leckie: Yes, the noble Baroness is correct. I am certain that Philip Augar, in his review, will take these matters into account. I also note that the Liberal Democrats have sent some recommendations to Philip Augar; I have no doubt that he will take account of them as well.

Baroness Lawrence of Clarendon (Lab): My Lords, is the Minister aware of Stephen Lawrence Day, announced by the Prime Minister? The first one was this bank holiday Monday. I also inform the House that educational packs have gone to all schools up and down the country.

Viscount Younger of Leckie: Absolutely. Monday 22 April was very much in my mind, and I thank the noble Baroness, Lady Lawrence, for her tireless work to ensure that Stephen’s legacy leads to change in our communities and public institutions. We support the trust’s work with young people and schools. As she will be aware, education and schools play a vital role in ensuring that the next generation learns the shared values underpinning our society. Those running in the London marathon on Sunday, including some Peers from this House—not me, I hasten to add—will see at the 18-mile 18 marker a tribute to Stephen’s life, designed by three young architecture graduates. I know that Stephen was a keen runner and also dreamed of becoming an architect.

Baroness Greengross (CB): I am the proud recipient of an honorary doctorate from the OU, so I add my congratulations. Incidentally, mine was presented by the noble Baroness, Lady Boothroyd. I believe passionately in the importance of lifelong learning and we are still waiting for the Augar review to report. It is now seven years since the 2012 reforms, which everyone seems to agree are partly responsible for this staggering decline in part-time and mature study. The OU briefing says that there is a 60% fall in part-time undergraduate numbers and a 40% fall in the number of mature
undergraduates. Lifelong learning says what it is on the tin—but if we wait another seven years for something to be done to encourage it, a whole generation of potential beneficiaries will not be here to benefit. So does the Minister not agree that this is a matter of extreme urgency?

**Viscount Younger of Leckie:** The noble Baroness is correct. I reassure the House that the post-18 review, which aims to ensure that there is a joined-up system, is due to report shortly. It will consider the issues around part-time and distance learning. I will take the opportunity raised by the noble Baroness, Lady Garden, to congratulate the OU on 50 years since its official charter date. Indeed, this is a very participative House today: a number of noble Lords either studied or taught there.

**Lord Forsyth of Drumlean (Con):** My Lords, now that the Treasury has been required to change the fiscal illusion funding that encourages all higher and further education to be funded through student loans, should the Government not look at restoring direct grants to institutions so that they are able to run these courses? The Augar review was promised for November last year, and then January—and we are still waiting. What is the delay? The Economic Affairs Committee of this House set out very clearly what needed to be done to sort out this problem. Why can the Government not get on with it?

**Viscount Younger of Leckie:** I reassure my noble friend that there is no delay, as far as I am aware—“shortly” is the word that I am using. The Government will respond to the proposals that Philip Augar produces by the end of the year. But the Government plan to invest nearly £7 million this academic year for 16 to 19 year-olds in education or training, including apprenticeships.

**Lord Watson of Invergowrie (Lab):** My Lords, the Government’s 2012 higher education funding reforms have resulted in a drop of something like 60% in part-time undergraduate study. The noble Viscount and indeed other Ministers use as a defence the Augar review recently referred to, saying that no government action can be taken in advance of that—but that does not stand up to scrutiny. Last September, the Department for Education announced the introduction of maintenance loans for face-to-face part-time undergraduates, which was meant to be extended to part-time distance learners this September. But last month, the Universities Minister used a Written Answer to slip out the news that distance learners were no longer to have that access support available to them. Will the noble Viscount explain why, when he talked earlier about barriers to learning, his department believes that that decision will assist in reversing the downward trend of those indulging in part-time education?

**Viscount Younger of Leckie:** The issue of whether distance learners should receive maintenance grants was considered very carefully and rejected. But the Government are absolutely dedicated to stopping the decline in the number of part-time students. In other words, it has reduced. We have made a number of changes to support part-time and mature learners. This academic year, part-time students are, for the first time ever, able to access full-time equivalent maintenance loans.

**National Lottery Heritage Fund Grants:**

**Conservation Management Plans**

**Question**

3.23 pm

**Asked by Lord Aberdare**

To ask Her Majesty’s Government what action they will take to ensure that Conservation Management Plans for parks and gardens which have received National Lottery Heritage Fund grants are properly preserved and safeguarded for public availability and use.

**The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con):** My Lords, the Government recognise the importance of maintaining a record of the UK’s landscape heritage. The National Lottery Heritage Fund will make available on request a list of funded projects potentially containing conservation management plans, to enable interested parties to request copies of these plans as needed. The fund will also strengthen the emphasis on creating a legacy record for funded projects and on making this publicly accessible wherever possible.

**Lord Aberdare (CB):** My Lords, the National Lottery Heritage Fund has provided sterling support for parks and gardens throughout the UK through some £50 million of grants. In the process it has accumulated an invaluable archive of conservation management plans covering the history, ecology, archaeology, social context and design of those parks and gardens. That physical archive has now been destroyed, much to the dismay of numerous garden conservation and archival bodies. Beyond the welcome but limited steps in his Answer, what can the Minister do to ensure that proper procedures are put in place so that, in future, important material of this kind held by the NHLF and other bodies with responsibilities to the public is properly looked after and made available? Will he encourage all such bodies to publish their records management policies and procedures to ensure greater transparency and oversight?

**Lord Ashton of Hyde:** The noble Lord paid tribute to the National Lottery Heritage Fund for supporting landscape projects. It has given more than £1.1 billion to more than 13,000 landscape projects since it started. Historic England has also looked at maintaining archive records and has set up the heritage information access strategy programme, which is due to be delivered by 2022. It will facilitate the free uploading and storage of information in a publicly accessible database by any organisation. However, the problem remains that the copyright of these conservation management plans rests with the grantee, or sometimes the contractor, not with the National Lottery Heritage Fund.

**Lord Howarth of Newport (Lab):** My Lords, can it be true that a body created by statute, with no responsibility other than to protect heritage, should have deliberately decided to destroy its own physical archive relating to the conservation and management
Lord Howarth of Newport: of historic parks and gardens, which it has itself done so much over more than 20 years to support? Does it not beggar belief that the National Lottery Heritage Fund, aware as it most certainly is of the fragility of digital archives, should have perpetrated such an act of vandalism? Can the Minister reassure us that this story is just a bad dream?

Lord Ashton of Hyde: No, it is not a bad dream. However, it is more complicated than the noble Lord portrays. First, the records that were destroyed were not originals. The originals remain with the grantee of the fund. The conservation management programmes that the National Lottery Heritage Fund possessed were copies from a point in time. They were living documents and were changed; they were not the originals. Secondly, the fund does not retain the copyright, so even if it retained the documents, it would not be able to make them publicly available. It is trying to ensure that in future the grantees of National Lottery funds are able to make the documents publicly available, and they are encouraged to do so, but there are issues about finding an archive prepared to take all those documents.

Lord Wigley (PC): My Lords, I strongly support the points made by the noble Lords, Lord Aberdare and Lord Howarth. What steps are being taken to ensure that similar archive material held by other bodies such as the National Trust, which straddles Wales and England, and by bodies in Wales, such as Cadw and Cyfoeth Naturiol Cymru, is also preserved? What discussions have taken place between the Minister’s department and the Welsh Government on those matters?

Lord Ashton of Hyde: The National Archives has talked to bodies such as the National Lottery Heritage Fund to make sure that they can make arrangements in future so that there is a single point of access, if you like, for these documents. As I said before, the issue is making sure that the owner of the intellectual property or the copyright enables that to happen. Physically, it is possible. The archives sector is discussing that, and Historic England is promoting the heritage information access strategy, which is designed to do exactly that and have one point of access.

Lord Cormack (Con): My Lords, as we are marking this very month the 150th anniversary of the Historical Manuscripts Commission, now subsumed in the National Archives, can my noble friend follow up on what he said a few minutes ago, indicating that what have been destroyed are copies? Can we establish how many of the originals survive, and at the very least can a list of those—properly tabulated—be deposited in the National Archives?

Lord Ashton of Hyde: As I mentioned earlier, the fund has offered to compile a list of the 1,300 park and garden projects for which conservation management plans might have been produced, although it estimates that there are about 500 to 600. As I said, that list will be available to those who ask for it.

Lord Watts (Lab): My Lords, have the Government asked the copyright owners whether they will donate their copyright to the nation?

Lord Ashton of Hyde: The Government have not been in touch with the 1,300 grantees but, as I said, the fund is producing a list of the 500 to 600 for which conservation management plans might have been produced. It will be able to ask those copyright holders whether they are interested in doing that.

Lord McNally (LD): My Lords, it is clear that something terrible happened, but surely the way to make sure that it does not happen again is to give the National Archives absolute responsibility, whereby any holder of archives should consult it before contemplating any destruction or removal.

Lord Ashton of Hyde: I am sorry but I do not agree with the noble Lord that something terrible has happened. The National Lottery Heritage Fund has no remit to retain records. It is not an archive; it is there to promote heritage, and it is able to spend on heritage the £150,000 a year that is saved. First, as I said, the originals remain with the grantees. Secondly, the fund took legal advice and, even if it had retained them, it would not have been able to make them available. Therefore, there was no point spending £150,000 a year on retaining the documents when they were not the originals and the originals were available elsewhere.

European Parliament Elections

3.31 pm

Question

Asked by Lord Robathan

To ask Her Majesty’s Government whether the United Kingdom will participate in the European parliamentary elections next month; and what preparations are being made.

Lord Young of Cookham (Con): My Lords, it remains the Government’s intention to leave the EU with a deal before 23 May so that we do not need to participate in European parliamentary elections. However, we have taken the necessary steps required by law should we have to participate, and we have provided the necessary legislation for returning officers to hold potential European parliamentary elections on 23 May.

Lord Robathan (Con): I hope that my noble friend’s optimism is not misplaced. I think that referendums are, frankly, a very bad idea in a parliamentary representative democracy, and I suspect that many Peers would agree. However, three years ago we had one. Whatever position people took in the referendum and have taken since, surely the people of this country will at the very least be astonished if we fight these elections. Our friends in Europe and elsewhere are already pretty bemused. Should it come to pass that we fight these elections, the trust in Parliament and politicians that is already pretty shaky will be further harmed, so will my noble friend consider what action the Government can take to bolster that trust before it completely disappears?
**Lord Young of Cookham:** I hear my noble friend’s concern about the breach of public trust that would occur were that eventuality to take place. I was in my place on 27 March when he spoke on this very subject. He said: “I have no idea what will happen and I shall not predict. It is very unwise if one does”—[Official Report, 27/3/19, col. 1854.]
I think that he was right. However, on a more constructive note to my noble friend, I am as anxious as he is to avoid holding the European elections. With that objective in mind, I believe that he might have more leverage with the European Research Group than I have. Perhaps he could persuade those who have so far declined to do so to back the deal so that we have a better chance to call off the election.

**Lord Hunt of Kings Heath (Lab):** My Lords, I wonder whether the Minister can help me. If these elections take place, will the Conservative Party be supporting Conservative Party candidates? Various enunciations made by his colleagues in the other place seem to suggest that they will not actually be supporting the Conservative Party. Can he help us here?

**Lord Young of Cookham:** Well, I shall certainly be supporting Conservative candidates in the European elections. I am sure that the noble Lord, led by the Opposition Chief Whip, will be heading a task force to the south-west to support the noble Lord, Lord Adonis, even if the price of success means that we no longer have his contributions to our debates on statutory instruments.

**Baroness Ludford (LD):** My Lords, does the Minister agree that it would be deplorable if all the effort and money being put in by the Electoral Commission and local electoral returning officers were wasted due to Tory infighting and fear of the European elections? It is rather rich that Brexeters do not like the democracy that the European elections incorporate, having always claimed that the EU is undemocratic.

**Lord Young of Cookham:** The noble Baroness will be as familiar as I am with the reasons why we might have to go ahead with these elections. After the decision on 29 March not to vote for the withdrawal agreement, it became inevitable that there would be a risk of holding these elections. The Prime Minister has done all that she possibly could to avoid this scenario, and I commend her patience and determination. There is still time to avoid those elections if enough people in another place change their minds and decide to back the deal.

**Baroness Hayter of Kentish Town (Lab):** My Lords, it is quite clear that we will be fighting these elections, because the Government have not managed to get a deal to which the Commons agrees. In that case, will the Cabinet Office agree to do two things? First, will it alert EU citizens living in this country that they will be able to vote on that day if they are registered by 8 May? Will the Government, for example, remind those on the settled status list of that? Secondly, will the Government ensure that the other 27 Governments alert British citizens resident in their countries that they will be able to vote in those countries on their election dates?

**Lord Young of Cookham:** I agree entirely with the noble Baroness. It is important that EU citizens in this country and UK citizens in European countries are fully enfranchised and can take part in the European elections— if they take place. I would like to pursue with the Electoral Commission some of her ideas about raising the profile of these elections, because in some European countries people may have assumed that they will not take place. I will certainly see whether further action can be taken to raise the profile of these elections. Information is of course available on the European Parliament website for those who want further details on how to vote.

**The Lord Bishop of Leeds:** My Lords, whether the election goes ahead or not, is it not clear that the Government need to have some vision that goes beyond the EU for the future of Europe, of which the UK remains a part in a post-Brexit world? If so, is this vision being developed so that it can be articulated?

**Lord Young of Cookham:** I agree entirely. To some extent, that goes beyond the withdrawal agreement to the political agreement which is set out. I very much hope that we will continue to have a good and close relationship with our neighbours in Europe, and that any deal minimises turbulence for the economy and for employment. I agree that, once we have overcome the hurdle of the withdrawal agreement, we should raise our sights and work towards a harmonious future with our European friends and neighbours.

**Sri Lanka**

**Statement**

3.38 pm

**Baroness Goldie (Con):** My Lords, with the leave of the House, I should like to repeat a Statement made yesterday in the other place by my right honourable friend Mr Jeremy Hunt, the Secretary of State for Foreign and Commonwealth Affairs, with reference to the terrorist attacks in Sri Lanka on Easter Sunday. I repeat that this reflects the situation as of yesterday. The Statement is as follows:

“Today, the flags in Downing Street and on the Foreign and Commonwealth Office are flying at half-mast following the horrific Easter Day terrorist attack in Sri Lanka. With your permission, Mr Speaker, I would like to update the House on the attack and the UK Government’s response.

On Sunday, multiple terrorist suicide bombings were conducted across Sri Lanka. Six explosions occurred simultaneously—three in churches conducting Easter Day services in Colombo, Negombo and Batticaloa, and three more in hotels in Colombo popular with foreign visitors. Information is still coming in, but we know that over 300 people have been killed, and we know that at least eight of those, sadly, are British nationals. They include mother Anita Nicholson with her 14-year-old son Alex and 11-year-old daughter Annabel; teenage brother and sister Amelie and Daniel Linsey; and retired firefighter Bill Harrop with his wife, retired GP Sally Bradley. The whole House will want to pass on our deepest sympathies and condolences, as we digest a truly heartbreaking situation.
BARONESS GOLDFIE

I spoke to James Dauris, the British high commissioner in Colombo, earlier this afternoon, and I want to put on record my thanks to him, his team and all the employees of the British Council for their dedication in extremely testing circumstances. One locally employed British Council employee is in hospital with his wife, both with serious injuries, and our thoughts are also with them and their family. Our travel advice has been updated and remains the best source of information for any British nationals or family members who have concerns about the situation.

Yesterday, I spoke to my counterpart, the Sri Lankan Foreign Minister, to express my thanks for the work of the emergency services in Sri Lanka, as well as to pass on our condolences to all the bereaved families. I also discussed what further support the UK might be able to offer. Her Majesty the Queen, the Prince of Wales and other members of the Royal Family have sent messages of condolence to the President and people of Sri Lanka, and the Prime Minister is expected to speak with the Sri Lankan Prime Minister, Mr Wickremesinghe, later today.

These attacks were a primitive and vile attempt to sow division between people of different faiths. Religious tensions have caused some of the bloodiest battles in human history and it is sombre and sobering that even in the 21st century attempts continue to set believers of different religions against each other. Our response must be to deny the perpetrators the satisfaction of dividing us by being united in our condemnation of the attacks and united in our support for religious tolerance—surely one of humanity’s greatest achievements. Just as after the equally horrific attacks on the two mosques in Christchurch, New Zealand, we must respond by bringing people together; that is the exact opposite of what the perpetrators intended.

It has to be said that the sheer brutality of the attacks was stark. One pair of attackers, after detonating their first explosives in a hotel, waited for people to try to escape before detonating a second device. The device destroyed by security services at Colombo airport was most likely designed to target fleeing civilians. The attack was complex, tightly co-ordinated and designed to cause maximum chaos, damage and heartbreak.

The United Kingdom will never stand by in the face of such evil. Today, we stand in solidarity with the Government and people of Sri Lanka, who have made enormous strides towards stability and peace following the conclusion of the civil war almost exactly 10 years ago. The Metropolitan Police Counter Terrorism Command has dispatched a team of specialists to Sri Lanka, including family liaison officers, to support the families of British victims and assist with the repatriation of deceased British nationals. A recent programme run by Interpol involved the training of 30 Sri Lankan forensic specialists and police officers by UK experts in disaster victim identification. We hope that that will be of additional support.

The Government of Sri Lanka have declared a state of emergency as the investigation continues. More than 20 arrests have been made and there are likely to be more people who were involved in the planning of this attack still at large. A large amount of improvised explosive device material has been recovered, including 87 low-explosive detonators that were recovered from a bus station. There are no verified claims of responsibility as yet. So far, 40 arrests have been made, and counterterrorism activity continues. The Sri Lankan Prime Minister and President have both said publicly that there will be a thorough investigation into the incident and whether information was handled correctly, and it is important to let that process follow its course.

To attack Christian worshippers at Easter, which is a celebration of peace and the holiest day in the Christian calendar, betrays in the attackers an absence of the most basic values of humanity. Just two days ago, the Prime Minister and I both noted in our Easter messages the dangers facing Christians around the world, 300 of whom are killed every month. In response to such acts, we must redouble our efforts to protect the freedom of religious minorities to practise their faiths, wherever they are. For that reason, the Foreign and Commonwealth Office has asked the Bishop of Truro to do an independent report into what more can be done to protect persecuted Christians around the world.

The British Government will continue to give their wholehearted support to the people of Sri Lanka, and I am sure the House will join me in once again expressing our deepest sadness and sympathy to everyone who has been affected by these monstrous attacks. I commend this Statement to the House”.

3.45 pm

Lord Collins of Highbury (Lab): My Lords, I thank the Minister for repeating that Statement, which I wholeheartedly agree with. I join with her in commending the work of the British high commission in Colombo and all of its staff, and that of the British Council. They have done tremendous work.

I welcome what the Foreign Secretary said about the assistance that the Government are ready to offer to the Sri Lankan authorities, whether on security and intelligence or helping with forensic services. This help is obviously even more vital after what the Sri Lankan Government confirmed today: that many of the bombers had international connections, having lived or studied abroad, including in the United Kingdom.

There is no doubt about the horrendous impact that this has had on Sri Lanka. Hospital services in a number of cities across the country have certainly been overwhelmed by the number of individuals injured in the attack, with many still fighting for their lives. Could the Minister tell us whether the UK has had any requests from the Sri Lankan authorities to provide assistance with medical support, or have we offered to do so?

Undoubtedly, questions will need to be answered and lessons will need to be learned. But as we showed earlier, the time now is for this House and this country to stand with the people of Sri Lanka, who have lost so many loved ones, and with those from around the world who have suffered a similar loss, to express our shared solidarity and grief at the devastation they have suffered. My thoughts especially go to my noble friend Lord Bradley and his family, who lost his sister and brother-in-law. The wonderful public service of Bill Harrop and Sally Bradley were so movingly recorded on the radio yesterday. I think all of us would have been touched by their story.
With the Foreign Secretary’s commitment for the UK to help Sri Lanka with whatever it needs, does the Minister agree that the world, and not just Sri Lanka, may need to reflect on the learnings that come out of any investigation, particularly when it comes to the persecution of faiths? As we know, the noble Lord, Lord Ahmad, has a special responsibility for freedom of religious belief. I hope the Minister will be able to discuss with him how he can take this work to all our allies, including the United States, and to renew it with even greater vigour. We in this country and the West in general must do our part to help Sri Lanka to recover from this horror by continuing to visit that beautiful country and showing that terrorists will not win.

Baroness Northover (LD): My Lords, I thank the noble Baroness for repeating the Statement. From these Benches too, I express our deep sadness at this appalling atrocity. It is unbelievably awful that children in particular were clearly targeted. We too convey our condolences to the people of Sri Lanka, and to all those who have been affected, including the noble Lord, Lord Bradley, who has lost his sister and his brother-in-law.

These events have global roots and global impact, and we surely must work internationally to counter the dehumanised thinking that underpins such events, whether in Christchurch or in Colombo or, indeed, in our own country, where one of the bombers may have studied. Given the history of Sri Lanka and the events of last year, what concerns does the noble Baroness have about the destabilising effects of this atrocity? What are the Government doing with others to ensure that, if there is relevant intelligence, it is treated with the seriousness it deserves?

Baroness Goldie: My Lords, I thank the noble Lord, Lord Collins, and the noble Baroness, Lady Northover, for the tone of their comments and observations. I think I speak for the whole House when I say that, when one of our own is affected by this tragedy, as the noble Lord, Lord Bradley has been with the tragic death of his sister, we feel that keenly. Our thoughts are very much with the noble Lord and his family at this time.

The noble Lord, Lord Collins, asked about UK support. As he is probably aware, we do offer support. When repeating the Statement, I mentioned that the Metropolitan Police are providing support and have sent a team of specialists to Sri Lanka. We are also providing significant help over a three-year period from the Conflict, Stability and Security Fund. In response to his specific question on whether we have had any requests for medical assistance, I do not have an answer to that, but I will undertake to find out and revert to the noble Lord.

The noble Lord very wisely observed that the world may need to reflect on the outcome of whatever the investigations are. It would be instructive, once we have allowed the investigations to take their course, to consider what the determinations of that investigation are. He is right that we need to reflect on that, because this attack was monstrous, rightly causing shock and horror across the world. If there is anything we can learn that might assist in avoiding such attacks or deterring such perpetrators in the future, we would obviously want to know that.

The noble Lord also raised the role of religious tolerance. I entirely agree that this is almost the cornerstone of what many of us wish to see for the world on a pan level. My noble friend, Lord Ahmad, has a very important role to play, and I think the noble Lord, Lord Collins, will accept that my noble friend is a respected and liked presence on the global stage, and I am sure he will be very interested in the noble Lord’s observations. I will certainly ensure that he is aware of the point that has been made.

The noble Baroness, Lady Northover, raises an extremely important point. Since the travails and struggles of the civil war in Sri Lanka, we have seen a blessed and welcome period of peace. It would be profoundly regrettable if murderous activity like this had a destabilising effect. Sri Lanka knows that the United Kingdom stands with it and the Sri Lankan people against terrorism in all its forms. No one should ever have to practise their faith in fear. We will do everything we can to support Sri Lanka.

It is clear from the reaction, not just across the world but also within Sri Lanka, that there has been horror at what has taken place. As my right honourable friend in the other place observed yesterday, we should ensure that what unites us is a sense of purpose that we will not stand for behaviour like this, that we will stand united against those who seek to wreck our civilised societies, disregard the rule of law and seek to impose their own barbaric standards upon others. The United Kingdom will be at the forefront, with its partners across the world, in taking that stance and leading that charge.

3.54 pm

The Lord Bishop of Leeds: My Lords, my diocese, the diocese of Leeds, has had a link with Sri Lanka for nearly 40 years and I am in daily contact with the church out there. I urge the Minister and the Foreign Office to take seriously the difference between ethnic and religious strife, because we cannot always draw a straight line from people being of different religious practice or conviction to particular actions. The civil war, for example, was much more complex than is sometimes represented outside Sri Lanka. What has happened in the last few days is very different; it is international. We need to understand more about the impact on the Muslim community in Sri Lanka, as it has not been a pleasant experience for them. It is not quite as simple as we sometimes think, and I would urge caution in the way that we represent the current issue.

Baroness Goldie: I am sure the whole Chamber will have listened with care to the right reverend Prelate’s observations. He is right that there should always be caution, but I think it is also accepted that, when something of this enormity occurs, there is a sense of disgust and opprobrium. While it is right that that is expressed and made clear, equally, yes, I understand what he is advocating and it is wise counsel.

Lord Naseby (Con): My Lords, as many in the House will know, I have been involved with Sri Lanka for over 50 years and in considerable depth. As the House may recall, this is the second tragedy to hit Sri Lanka. The first was on Boxing Day 2004, when over 30,000
innocent people died as a result of the tsunami. On this occasion, we know that there were over 300. Against the background of the most recent tragedy, is my noble friend also aware that there are approximately half a million Sri Lankans living in the United Kingdom? Will she ensure that, for those Sri Lankans here, who will undoubtedly have had friends or relatives who are somehow connected to those who have died or been badly injured, the services of the Foreign and Commonwealth Office and whatever other offices are needed are there for them? Those Sri Lankans in the UK will undoubtedly be really anxious at this time. It could possibly be done through the local high commission here.

Baroness Goldie: I thank my noble friend. He raises an important point: there is a significant Sri Lankan population within the United Kingdom and we of course want to reassure that community that we are with them. We want to support them and there are ways in which we can offer that support. It may be through the FCO and it may be through the Sri Lankan high commission in London, but he makes an important point.

Baroness D'Souza (CB): My Lords, there has been a degree of instability at the heart of Sri Lankan government since the events of last autumn, when the President tried to replace the democratically elected Prime Minister with another Prime Minister. At that time, it was the judiciary which upheld the constitution, resulting in the reversal of that unwise decision by the President of Sri Lanka. Can the Minister say what resources the UK Government are committing to upholding the institutions of democracy in Sri Lanka—in particular through the Commonwealth, for instance, and DFID—and ensuring that there is an adherence not only to the constitution at the heart of government but to the oversight of government, which has been largely lacking?

Baroness Goldie: The noble Baroness makes a very valuable point in relation to the Commonwealth, which as she is aware is a strong and coherent family of nations. When any one of these nations is affected like this, there is a sense of standing together and wanting to provide support. Specifically in relation to the United Kingdom, the UK has made a long-term commitment to supporting the rebuilding of the country after three decades of civil conflict. I referred in an earlier answer to the Conflict, Stability and Security Fund. The UK is providing Sri Lanka with £8.3 million over three years, which commenced in 2016. That is specifically to include support for police reform and training, reconciliation and peacebuilding, and demining in the north of the country. But that is against the backdrop of wanting to protect human rights and support the emergence of the strong constitution to which I think the noble Baroness is referring.

Lord Anderson of Swansea (Lab): My Lords, the Minister speaks for the whole House in deploring the massacre of all the innocents in Sri Lanka, both the hotel guests and the worshippers, particularly the children. She is right also to put it in the context of a worldwide persecution of Christians, evidenced by bodies such as Open Doors, the appropriate Catholic body and the Barnabas Fund. As we await the Bishop of Truro’s report, how does she respond to the charges that we all in the UK, of all parties, have been too restrained by some form of post-colonial guilt in making appropriate representations when Christians are massacred in other countries?

Baroness Goldie: As both my right honourable friend the Foreign Secretary and the Prime Minister made clear in their Easter messages, there is profound concern at the extent to which Christians are facing persecution. The figures are deeply troubling. The UK is committed to doing everything possible to ensure that people of all faiths are treated equally, and we have a strong and proud tradition ourselves of religious tolerance. Can we learn? I am sure that we can. Is there more that we can do? We should never stop being prepared to learn. Even arising out of dreadful situations, as the noble Lord, Lord Collins, pointed out, it is possible to learn. There may be lessons that we can learn from this event. I think that it is already clear that there has been a global condemnation of what has happened, and rightly so. Equally, I think that there is global sense of purpose to do whatever we can, collectively as nations across the world, to protect the freedom of different faiths to practise their beliefs. That of course includes Christians.

Lord Carlile of Berriew (CB): My Lords, I am sure that the moving Statement repeated by the Minister speaks for us all. Does she agree that there is a lesson to be learnt very quickly from these terrible events: that where there is intelligence that points to the possibility of this kind of event occurring, it is crucial that it be shared between nations interested in that intelligence and that it be deployed properly within the country where the event is thought to be likely to occur?

Baroness Goldie: The noble Lord speaks with authoritative experience in this sphere. I would not want to prejudge or pre-empt the investigation which the Sri Lankan Government are now embarked on. We have to leave that to run its course and then, as I said earlier, reflect on its determination and conclusions. On the general question whether it is helpful to share security intelligence, yes, it is. The noble Lord will be aware that that is at the heart of much of our defence policy within this country. That is why we value greatly the alliances and security-sharing relationships which we have, whether it be through NATO, with allies or with our colleagues in the EU.

Lord Leigh of Hurley (Con): My Lords, while the intended targets of this atrocity were clearly meant to be Christian, the terrorist bomb does not discriminate. The Linsey family were members of Westminster synagogue, of which I am president. Amelie and Daniel shared the same classes as my children. Amelie celebrated her Bat Mitzvah just last March, reading with poise, maturity and warmth from our Torah scrolls. Daniel was especially interested in Jewish festivals. He came into our synagogue before Purim, a festival a month and a half ago, to read about Purim, to go to our library and to help our staff set up for the evening festivities.
We have pledged as a community to offer our love and support to the Linsey family and to do everything we can every step of the way. The Jewish community is used to counselling mourners who have been affected by the terrorist bomb, and this is another chapter in that sad and sorry book. Will my noble friend the Minister please double her efforts to ensure that the bodies are returned as soon as possible? Last night, the families were trying to make progress. We would be grateful for any assistance that she can provide through the civil servants to ensure that that happens as quickly as possible, as required by the Jewish faith.

Baroness Goldie: I thank my noble friend. His eloquent and poignant comments indicate starkly the enormity of what has happened, when children are the victims of this mindless criminality. Our thoughts are very much with Amelie and Daniel and their family. The loss of Amelie and Daniel to the family is grievous and I hope that my noble friend will convey the condolences of this Chamber to the family when he is next in touch with them. On the issue of helping to transport and return bodies to this country, yes, there is help available and if my noble friend wishes to speak to me afterwards I will see whether there is something specific I can do to assist in that respect.

Mental Capacity (Amendment) Bill [HL]
Commons Amendments

4.05 pm

Motion A

Moved by Baroness Blackwood of North Oxford

That this House do not insist on its Amendment 1B proposed in lieu of Commons Amendment 1, to which the Commons have disagreed, and do agree with the Commons in their Amendment 1C in lieu.

1C: After Clause 3, page 3, line 28, at end insert the following new Clause—

“Deprivation of liberty: code of practice

(1) Section 42 of the Mental Capacity Act 2005 (codes of practice) is amended as follows.

(2) After subsection (1) insert—

“(1A) Guidance about what kinds of arrangements for enabling the care or treatment of a person fall within paragraph 2(1)(b) of Schedule AA1 must be included in the code, or one of the codes, issued under subsection (1).”

(3) After subsection (2) insert—

“(2A) Before the end of each review period the Lord Chancellor must—

(a) review each code for the guidance of persons exercising functions under Schedule AA1, and

(b) lay a report of the review before Parliament.

But this does not affect the Lord Chancellor’s functions under subsection (2).

(2B) A review period is—

(a) in relation to the first review, the period of 3 years beginning with the day on which this subsection comes into force, and

(b) in relation to subsequent reviews, each period of 5 years beginning with the day on which the report of the previous review was laid before Parliament.”

(4) In subsection (3) after “preparation” insert “, review”.”
[Baroness Blackwood of North Oxford]

further clarification on the meaning of a deprivation of liberty in statute; we have had many debates about that. The Government had hoped to do so as well. We agreed with the Joint Committee on Human Rights that a definition could help bring greater certainty to people and professionals; to this end, we explored providing a statutory clarification over several months, working with colleagues across government and across the sector.

However, we established that the only way we could do this was to take an exclusionary approach and define a deprivation of liberty as having the same meaning as in Article 5 of the convention, then setting out what does not constitute a deprivation of liberty. This House made it clear that it was uncomfortable with an exclusionary approach to defining a deprivation of liberty. The Government have listened carefully to the views of Peers, MPs and other stakeholders, and decided not to insist on our original amendment. However, the Government were not able to accept the amendment tabled by the noble Baroness, Lady Tyler. It risked falling out of line with case law and would mean having two different definitions in place, which would bring confusion to a sector that needs clarity.

I assure noble Lords that the Government are still committed to providing clarification regarding the meaning of a deprivation of liberty for both people and practitioners. Amendment 1C makes it clear that the code of practice must lay out in clear terms, and provide detail of, when a deprivation of liberty is and is not occurring; this guidance will reflect existing case law, including the Ferreira decision, which addresses the provision of life-sustaining treatment. We will set out the meaning of a deprivation of liberty in a positive framing and in a way that is clear for people and practitioners. We will also include case studies in the code to help illustrate this.

The amendment also brings in a duty to review any parts of the code that give guidance to anyone exercising functions under LPS. This includes laying a report of the review before Parliament. As I said, initially, there must be a review within three years of the subsection coming into force to ensure that it is working as intended. Following that, there must be a review every five years after the date on which a report is laid before Parliament. This will mean that the meaning of a deprivation of liberty will be considered regularly and remain up to date with evolving case law. The review will not be limited to the definition but will include all the guidance relating to the liberty protection safeguards contained in the code of practice. By regularly reviewing the code in this way, we will ensure that there is up-to-date guidance for people and practitioners, which will support the successful operation of the liberty protection safeguards system.

Amendments 25B and 25C state that after authorising arrangements, the responsible body must, without delay, arrange for a copy of the authorisation record to be given or sent. If the responsible body has not done this within 72 hours of the arrangements being authorised, it must review and record why not. The Government recognise the importance of providing people with information. We amended the Bill in the other place to clarify that people should be informed of their rights under the liberty protection safeguards process and provided with a copy of their authorisation record.

Building on this, the noble Baroness, Lady Watkins, tabled an amendment in this place specifying that a record must be kept if the authorisation record is not provided immediately, and that if the authorisation record is not provided to the person within 72 hours, a review must be conducted. The Government agree that it is important to make sure that the authorisation record is provided quickly; however, there were some issues with Amendment 25A, which we have addressed in our amendments. For example, we have made it clear in our amendments that the new duty falls on the responsible body. This is important as it means that the duty to arrange for the authorisation record to be provided to the person and their representatives can now be enforced.

The government amendments reflect the aims of the Lords amendment. Noble Lords will notice a small difference in that we do not require it to be recorded if an authorisation record has not been provided immediately. The reason for this is simple: our priority is ensuring that the person and their representatives receive the authorisation record. If there is an opportunity for the responsible body to send the authorisation record within 72 hours, they should be doing so rather than recording why they have not sent it. Providing information, including the authorisation record, is important to ensure that people are able to exercise their rights. Noble Lords have made clear their view that there should be a contingency provision to ensure that the responsible body makes arrangements in a timely manner to provide the authorisation record. The Government have listened and this amendment reflects that.

By passing these final amendments today we will bring to a close the parliamentary stages of the Bill. When the Government introduced it last year we committed to reforming the process so that it is less burdensome for people, carers, families and local authorities. That is what the Bill will deliver. On Royal Assent, the Bill will become an Act and will introduce a new targeted and streamlined system that will allow people to access protections quicker. This is vital when we have more than 125,000 people in the backlog not receiving protections and over 45,000 people who have been waiting for more than a year. I ask the House for its support and I thank all Members who have helped to deliver the Bill we have today. I beg to move.

4.15 pm

Baroness Tyler of Enfield (LD): My Lords, I shall speak to Commons Amendment 1C, which was agreed in lieu of Amendment 1B, which I moved in this House before the Recess. I start by thanking the Minister and the Bill team for the discussions it was possible to have in the latter stages of the Bill, which helped get us to a position that we now feel, particularly in relation to the definition, is pragmatic and one that we can live with.

First, I welcome the Government’s decision to drop what has been termed the “exclusionary definition” proposed earlier. It had a whole raft of problems but I have no intention of going into them again now. It is
important to acknowledge that the Government took on board the views expressed by Peers and others in the wider sector on that definition. The outcome of those discussions—that there should be no statutory definition in the Bill—is a sensible and pragmatic compromise after a rather long and tortuous journey. Those of us involved in putting forward different definitions had all received legal advice, which said that our definitions were fully compliant with Article 5 but most important of all is that the code of practice will be regularly updated. A review is important; our having an opportunity to scrutinise it is important; but most important of all is that the code of practice be regularly updated. I contend that some of the problems this whole Bill is designed to address, such as the backlog of deprivation of liberties cases, were in part caused by the fact that the code of practice was not amended as circumstances changed and as more and more cases such as Cheshire West were brought into the scope of the Bill.

I would very much welcome assurances from the Minister on those two points, and thank her for being as helpful as she has been. I thank colleagues on all Benches, because I feel that we have worked very collegiately and co-operatively. I hope and feel that that has helped improve the Bill.

Baroness Murphy (CB): My Lords, I do not really share the enthusiasm or optimism of the noble Baroness, Lady Tyler, although I often shared her views on what needed to be done at earlier stages. We are all rather tired of this Bill and I see nothing to be gained from hindering its passage, but I cannot let it pass without expressing my profound misgivings. W—it of this House—have failed to do what we were supposed to do. Our task was to make the deprivation of liberty safeguards—now the “liberty protection safeguards”—more practical, more focused on those at risk, more cost-effective and safer, and we have allowed the Bill to disintegrate into a sprawling, all-encompassing bit of a nightmare. The procedures may be simpler—we have cut out one layer of bureaucracy—but we have allowed these provisions to be extended even further than Cheshire West, even pursuing people in their own homes in a way which I do not think many families will appreciate.

The one thing everyone, including the JCHR, was hoping we would do was to introduce a realistic definition of a deprivation of liberty. In the end, we in this House just copped out. We could not agree; we got into a mess; the lawyers could not agree either; so we have just said, “No, let us put it all in a code of practice”. As many noble Lords will know, I wrote some of the early codes of practice for the Mental Health Acts, and I know that codes of practice suffer from mission creep—they get more and more stuff in which is quite difficult for people outside in practice who will implement it, and do not get updated very regularly because it is difficult to do so. Indeed, if there is no clause in statute, which most codes are fixed around—and there will not be, of course, as is intended—it will have to be arranged around Article 5. That will leave a situation in which the lawyers will have a field day, and in which we will still be waiting for case law to give us some guidance. Meanwhile, the numbers are going up. My latest count was 140,000—I think the official number a couple of months ago was 125,000. There will be a lot more soon. About a third—it may be even more than that—will be waiting for over a year, and 75% of them are elderly people with dementia, who will probably die before they get their rights looked at. Will it make any difference to them? Generally, it will not make one whit of difference. If we had done our job properly, the numbers would have gone down, and there is a chance that those at greatest risk—for example, people...
with severe dementia who are kept in locked units, who never see the light of day, and people with severe disabilities in residential care—would have been seen sooner and would have had their care plans addressed in respect of their freedoms.

Meanwhile, these last three years have seen an industry grow up around the implementation of DoLS. It is now called DoLS by everybody out there—I am not sure that most people know what that means. A costly public service has developed which has a life of its own, and which, as we have seen, takes money directly out of care budgets. When Staffordshire quite sensibly tried to call a halt and said, “Hang on a minute, let’s go for the worst cases: those most at risk, those with the most profound disabilities or where there is a disagreement”, somebody complained, and they were told in no uncertain terms by the Local Government Ombudsman to get on with it and to get back to doing everybody. So the waiting list grew yet again. Of course, many other county councils and metropolitan councils were making similar decisions, but they have all had to go back to compiling the waiting list, which grows and grows.

The other people who will love the Bill are the lawyers. Just imagine how you will be able to debate the nuances of Article 5 meanings when the code of practice fails to live up to expectations.

This Bill should be a lesson to us all. It is legislation which arose from a Supreme Court judgment—an impeccable theoretical case, made without any thought to the practicalities that would affect 2 million people. The Law Commission was as tied up in knots as everyone else and could not see a way through. My goodness, it worked long and hard on it in an admirable way, but it could not get beyond the problems of having to satisfy Cheshire West and the Supreme Court’s judgment. This House’s inability to grasp the nuances of Article 5 meanings when the code of practice is now being developed will result in a far better situation.

4.30 pm

It is a really major decision to deprive somebody of any aspect of their liberty as part of the care given, and it must always be necessary and proportionate to the size of the problem. Restrictions imposed to protect them from harm need to be consistent with their wishes and feelings as far as possible. Therefore, I am grateful that “wishes and feelings” are now spelled out in the Bill, because they were not previously.

I hope that the Bill as it now stands, with the code of practice being developed, will give greater professional discretion and flexibility to those on the ground responsible for implementing the Bill than the current DoLS system, which is very prescriptive and rigid. I think that the advocacy provisions in it will turn out to be better than those under DoLS. There was no requirement under the previous legislation to carry out consultation with the person or a range of others to ascertain the cared-for person’s wishes and feelings about the arrangements. We are moving from the deprivation of liberty, which may be convenient for those providing care of some sort, to trying to match the individual person.

We did indeed wrestle with the problem of a definition, and I think we gave it a fair hearing. Personally, I am glad that we are not including in the Bill a definition with which we are not totally comfortable because, having wrestled with it, we just could not get there. Perhaps the reason is that each person is unique and individual in separate, individual circumstances, so a definition of deprivation of one person’s liberty will differ from another’s, and it is only with a broader code of practice that we can spell that out and ensure discretion.

I am grateful to the Government for having included the whistleblowing procedures. As everyone is aware, I felt very strongly that they needed to be included, because they are a protection. I commend my noble friend Lady Watkins of Tavistock on having achieved the provision whereby the person and those closest to them must be notified of the arrangements, because if you know what they are, you can then state whether they are not being met, whistle-blow and ask for a review. In some ways, that is the most important aspect of protecting a person.

I am also glad that the definition will be framed in a positive way, because under the previous iterations, various misunderstandings were almost inevitably going...
to arise, and of course it must be compatible with Article 5. The consultation on the code has ADASS at its heart, and it is heavily involved. It will be responsible for front-line implementation, as will NHS England. I am glad that a wide group is being consulted and that whatever meaning is evolved in the code will be subject to review at three years. That seems a reasonably short space of time; it does not allow for drift but it is not so short that we end up with something that will not work.

It would certainly be very helpful for us to know the timing for the code being issued and to have reassurance that the three-year and subsequent five-year reviews will feed into revisions to the code. I hope that, as the noble Baroness, Lady Tyler, said, these are not separate processes, because that would be a complete waste of effort and of expertise.

The authorisation record can state what the person needs, and it can also require interim reviews. If, for whatever reason, somebody has a fluctuating situation or capacity, there may be interim reviews before the one-year review. As I understand it, even if the decision is made to extend reviews to every three years, within that time there can be interim reviews of aspects of that deprivation of liberty to make sure that the focus remains on the individual person.

We also wrestled with the problem of people in their own home. Sadly, evidence of elder abuse has come through from various charities, and we cannot ignore it. I am afraid it is right that, when there are complex care arrangements for people in their own homes, there must be a degree of scrutiny at some level. Otherwise, there is a real risk that people could be literally locked away, out of sight and out of mind, with nobody detecting when abuse occurs. The abuse of elders in our community is of great concern to everybody in this House.

Overall, I welcome where we have now got to. It would be helpful, however, if the Minister could confirm that the code of practice will be statutory; that it is not voluntary guidance but has standing. I hope she hears the message I have heard from many people, including those on the leadership group. I particularly commend Lorraine Curry, previously the chair of ADASS, who has provided me with a lot of constructive criticism. She reports back now that the profession just wants to get on with it and implement the new system, and do the right thing by the people for whom they have a responsibility. I hope we will see this Bill proceed today.

Lord O'Shaughnessy (Con): My Lords, I want to speak briefly to offer some thanks to everybody who has participated in getting the Bill to this point.

First and foremost, I thank noble Lords. The noble Baroness, Lady Finlay, said that the Bill had been given a bumpy ride. As I was in the driving seat for some of that, I can tell noble Lords that it certainly did feel rather bumpy. However, once we got over the bumps and decided we could work together, we made considerable improvements to the Bill, driven largely, it has to be said, by this House and the expertise within it. The compromise reached on the issue of a code of conduct is a good example of that and reflects extremely well on the process this House has gone through in its desire to reach pragmatic solutions—perhaps there is a wider lesson for politics in that.

I want also to express my thanks to those in the Bill team, who have stuck with this and shown considerable and growing intellectual flexibility as the process has gone on. I am sure all noble Lords would want to thank them for both their input and feedback and the grace with which they have dealt with this.

I thank also my noble friend the Minister. This Bill was one of many passes I gave her when she took over, and she has handled it with great intelligence and grace, as she always does. I am delighted we have got to this point and that she has steered it so safely.

Finally, and most importantly, I thank those affected by this legislation: the cared for and the carers. I am sorry to hear the opinion of the noble Baroness, Lady Murphy, which I take very seriously. I am an optimist naturally, but it is not just my natural optimism that means I cannot agree with her gloomy outlook. I hope she is wrong, and I hope she will not mind my saying so. I believe that through this legislation we have made some positive changes and done some good for the cared for and their carers. I am sure this is a subject to which we will return, but, in the meantime, I hope the lives of those people have been improved by the work we have put in over the past few months.

Baroness Barker (LD): My Lords, it has been a privilege to work again on a subject that we have now worked on several times in this House, from the original pre-legislative scrutiny and original legislation through to the post-legislative report on the implementation of the previous Bill. Apart from anything else, it shows the excellent results that can be achieved from the process that we put into scrutinising legislation and scrutinising its subsequent implementation. In light of all of that, I will say that I take a slightly different view from the noble Baroness, Lady Murphy. I think that we have done a very good job. The problem is that the legislation that came to us was fundamentally flawed, and we could not change that. But we changed the legislation where we could, and those changes will make it better.

The noble Baroness hit on two fundamental issues that are problematic. The first is the nature and scope of the Cheshire West ruling and the second is the lack of understanding of the original DoLS legislation. When it was introduced, the training for professionals—all sorts of different professionals—was lacking. Much of what has happened since has meant that we have fallen into a system that is deeply bureaucratic. A number of professionals are scared to exercise their professional judgment. Consequently, a whole bureaucracy has grown up around DoLS which, had it been introduced in the right way, would not have happened. Therefore, the noble Baroness was right to say that the Law Commission was trying to deal with that issue and could not. I have no doubt that what we have in front of us will not solve the problem. I doubt very much whether it will deal with the backlog of cases, about which people are rightly exercised.

My question is one that we were all concerned about—the resourcing for this. One of the first things that we did when we met the Bill team was to query the resourcing—half a day’s training for some doctors and no need for training for people in care homes. Much of that has got lost as we have gone deeper into the wording of the Bill. Will the Minister talk about
Baroness Barker (CB): I have a couple of points. Other noble Lords made detailed points about the work of this House and the contribution that noble Lords have made to the Bill—very effectively, I think. My experience, although in a sense peripheral, has been that this House has worked very effectively with both the noble Lord, Lord O'Shaughnessy, and the noble Baroness, Lady Blackwood, in their roles as Minister and with the Bill team, and have achieved a certain amount—which is all we ever expect. We do not normally expect to turn Bills upside down and back to front, but we have achieved certain things.

I will mention a couple of things for which I am grateful to the Government, if I am right that we have really seen them home. One of my concerns was the huge and growing number of people in domestic situations where very vulnerable carers are caring for very vulnerable loved ones. Of course we need some sort of safeguard to ensure that the deprivation of liberty, if it occurs, is proportionate, reasonable and all the rest of it, but I was very worried that these poor carers would have layers of bureaucracy that they really could cope with, in addition to the bureaucracy they already had to deal with. I think we had an agreement from the Government that the procedures for assessing deprivation of liberty, proportionality and the rest of it will be undertaken in the local authority's normal care-planning process, in the work that local authority officials are already doing. That seems a very constructive way forward which will greatly benefit a huge number of carers and cared-for people. It is a small thing, but it may be quite significant.

4.45 pm

My other big concern was about independent hospitals. I have spent a lot of time in my career visiting these places and finding the most vulnerable people with learning or physical disabilities, mental health problems and the rest of it very often tucked away hundreds of miles from their home. Originally the idea was that the independent hospital would be responsible for the assessment and the whole business of deprivation of liberty. In my view, that idea was absolutely horrendous, and, as I understand it, the Government have accepted that and will make sure that the local authority, ideally in the place the person comes from, will be responsible for that process, and therefore the pressure will be to get those people out of those hospitals and back into their community. This again seems to be a minor adjustment made as a result of the work of this House, but for the individuals concerned it is a very significant benefit. So I congratulate both Ministers who have been involved in this Bill, and the Bill team, on the work they have done to respond to concerns expressed by Members across this House. They have done the best they could, so I thank the Minister.

Baroness Thornton (Lab): My Lords, it is always a good moment when we get to this point in any legislation. It is also an opportunity for us to look at where we started in July. In July, my Chief Whip spoke to me about a really small, uncontroversial Bill that would amend the Mental Capacity Act. I am not criticising him, because that is what he had been told. The idea was that we would have the Second Reading, the Committee immediately after it and get through the Bill quite quickly. It is a great testament to this House that we recognised quite quickly that it might be a small Bill but it was certainly not uncontroversial. As I said when we moved into Committee, the noble Baronesses, Lady Jolly and Lady Barker, and I were sending each other messages about this Bill when we were all poolside in different parts of Europe because we realised that we needed to understand it much better.

I do not accept the criticism that we have failed. I think we started off with a flawed Bill and that we have improved it. In a few years' time I think we will almost certainly return to this subject, because by then we will have discovered things that have not worked out and that need to be reviewed and possibly changed. We need to thank both Ministers for listening, hearing and working to change the Bill. I particularly thank my fellow Peers for working so co-operatively and with such great expertise. It is always a pleasure when we do that and we are always at our most effective when we do so, and I have been very happy that various Members of the House have taken the lead on various issues throughout the passage of the Bill. The Minister named everybody, so I shall not do so again, but they know who they are and it has been a pleasure to work with them.

We should be pleased that we have successfully tackled what, as far as we were concerned, were certain huge issues, many of which have been mentioned by the noble Baroness, Lady Barker. They included care home managers’ powers, conflicts of interest, private hospitals, the definition of deprivation of liberty and the information provided. We should be proud that those issues have been tackled. I particularly thank the noble Lord, Lord O'Shaughnessy, I have not often been called a juggernaut but on Report he suggested that I was. I think he was expressing the opinion that in my remarks I was representing the views of the whole House and that we were definitely coming for him, as it were.
If we are to learn some lessons from this, one is possibly that the Bill team took a little while to gear up to what happens in the House of Lords and how we approach things. We talk to the stakeholders—we have a continuous dialogue with them—and that is the next group that I would like to thank. I thank all the stakeholders who came to endless meetings with us to make sure that we did our job properly, although some of them still have some major concerns.

I say to the House that what matters is what happens next. First, it seems likely that within the next year or so we will have another mental health Bill, so it is quite possible that some of the issues that we have been concerned about will re-emerge and be discussed during that process. Secondly, we will have the regulations and the code of practice. I would like to be assured that the consultation, which might not have been quite as good as it should have been at the beginning of this whole process, will absolutely inform the code of practice and the regulations that follow the implementation of this legislation.

I do not wish to threaten the Minister but, after the past eight or nine months, there is a body of commitment and passion over this issue that will certainly be watching and be interested in what happens next and will have something to say about it. Therefore, in a spirit of positiveness, we hope that we will be able to help with the next stages but we will certainly be watching them to make sure that the gains that we have made are reflected in the code of practice and the regulations.

Finally, I very much thank the Minister, who came in in the middle of the Bill. This is the second Bill that she has had to pick up and run with in your Lordships’ House. She has done it with great dignity and intelligence, and it has been a pleasure to work with her.

Baroness Blackwood of North Oxford: I thank noble Lords for an important moment in the passage of the Bill. I assure them that they will never have to threaten me to get me to listen to important points regarding the progression of legislation of this import. I identify myself with the comments of the noble Baroness, Lady Finlay. This is indeed a pragmatic solution to the very challenging problem of getting the right solution.

I also echo the comments of the noble Baroness, Lady Finlay, who said that this has been a bumpy ride, but it is a major decision to deprive someone of their liberty, so it is right that there has been very detailed scrutiny of the legislation. When someone is deprived of their liberty we have to ensure that it is always necessary and proportionate and, wherever possible, consistent with their wishes and feelings. I agree with her that the advocacy provisions in this Bill are stronger than in the DoLS legislation, and that it will provide greater responsiveness and flexibility than previous legislation. We can be proud as a House to have delivered that.

I am sorry to hear the concerns raised by the noble Baroness, Lady Murphy. As we proceed through the next stages of engagement over the code of practice, I hope that we shall be able to prove her wrong, in the most positive sense. We have put in place very strong measures for whistleblowing thanks to the contribution of the noble Baroness, Lady Watkins; thanks also to her work, we have strengthened the provisions for information. We have also to nail down the questions around the definition, of course, but I think it right that this is not on the face of the Bill for all the reasons that we have debated at great length in this Chamber. I will not rehearse them now but will try to answer some of the questions that I was asked.

The first is about when the code of practice will be published. Obviously, as the noble Baroness, Lady Finlay, pointed out, the department is collaborating very closely with the sector in the preparation of the code; that is already happening. We are working with many organisations and individuals. The drafting will be considered by expert reference groups and people with lived experiences, to ensure that we get the most practical and workable code of practice. The department has already convened a working group involving a wide range of stakeholders. We expect to have output from the working group by this summer. After Royal Assent, I will place a letter in the Commons Library as requested; this will contain timescales for the code of practice, including when a draft code will be published for consultation. I hope that is reassuring.

As I have said, the statutory guidance will include a suite of case studies which will demonstrate how the definition applies in different settings and scenarios. It will provide clarity and aid to practitioners. We are collaborating to ensure that it can provide clarity and lack of ambiguity and can be a real help to those using it. As the noble Baroness, Lady Tyler, said, we have made a commitment that it will provide detail about when deprivation of liberty does and does not occur. It will reflect existing case law, including the Ferreira decision, and it will set out the meaning of a deprivation of liberty in a positive framing; this should be reassuring.

On the question of a review, the code can be updated at any point. This will ensure that it can reflect changes in legislation practice or case law—that is, the entire code, not just the definition. I hope that is reassuring.

I would like to respond also to some of the points made by the noble Baroness, Lady Barker. She is absolutely right regarding the questions of resourcing, the backlog and training. We are very alive to this. A further impact assessment will be done following Royal Assent and we will work with stakeholders collaboratively to take on board feedback from previous iterations. We will also ensure that the Government will provide guidance ahead of implementation. That will include steps that can be taken to help reduce the backlog.

However, we will not stop there. The Government are committed to supporting training ahead of the new system coming into force and are working with Skills for Care, Health Education England and Social Work England to deliver that. Ahead of day one, we will work with local and national networks and the Welsh DoLS network, in partnership with the LGA and ADASS, to reduce the existing backlog. Work is underway for that. Cared-for persons who have existing DoLS authorisation on day one will remain under that authorisation until it expires, after which a new application will be needed to try to manage the volume of work that will be undertaken. I hope this is reassuring.

To respond to the point raised by the noble Baroness, Lady Finlay, I can assure her categorically that the code of practice will be statutory.
Baroness Blackwood of North Oxford

I hope that all this is reassuring; I think this is a great step forward and I commend the Bill to the House.

Motion A agreed.

Motion B

Moved by Baroness Blackwood of North Oxford

That this House do not insist on its Amendment 25A to Commons Amendment 25, to which the Commons have disagreed, and do agree with the Commons in their Amendments 25B and 25C to Commons Amendment 25 in lieu.

25B: Line 2, leave out from “(1)” to “to” in line 3 and insert “After authorising arrangements the responsible body must, without delay, arrange for a copy of the authorisation record to be given or sent”

25C: Line 10, at end insert—

“(1A) If the responsible body has not, within 72 hours of arrangements being authorised, arranged for a copy of the authorisation record to be given or sent to each of the persons mentioned in paragraphs (a) to (d) of sub-paragraph (1), the responsible body must review and record why not.”

Motion B agreed.

Saudi Arabia

Statement

5 pm

Baroness Goldie (Con): My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer given by my right honourable friend the Minister of State for Europe and the Americas to an Urgent Question in another place on Saudi Arabia. The Statement is as follows:

“We are very concerned by the 37 executions in Saudi Arabia and the FCO is working to establish the full facts. The Foreign Secretary will be raising this matter with the Saudi authorities at the earliest opportunity.

We are very concerned by the 37 executions in Saudi Arabia and the FCO is working to establish the full facts. The Foreign Secretary will be raising this matter with the Saudi authorities at the earliest opportunity. We regularly raise human rights concerns, including the use of the death penalty, at the highest levels with the Saudi Arabian authorities.”

Lord Collins of Highbury (Lab): My Lords, I thank the noble Baroness for repeating the Statement. This afternoon, in the other place, Alan Duncan said that the European Union had issued a very strong statement of condemnation through the European External Action Service, to which the UK had put its name, pointing out that these executions are a regressive step and specifically raising concerns that some of the 37 people executed were minors. If the Government’s position is to support their allies on this issue, what is the next step if the Saudis continue to flagrantly breach international law? Will the Government work with our allies to impose some form of sanctions so that the Saudis listen to our concerns over this flagrant breach of international law?

Baroness Goldie: I thank the noble Lord for referring to the statement from the European External Action Service. It is a very strong statement of condemnation and I understand that my right honourable friend Sir Alan Duncan said that the UK has put our name fully to it. I have looked at the text of the statement, and it does not pull its punches.

On the broader perspective of the noble Lord’s question, it is the case that Saudi Arabia has been an important partner of the United Kingdom and that partnership has a long history in the region. It fosters mutual understanding and that strategic relationship has stood the test of time. However, there is no doubt about the statement’s unequivocal terms. The United Kingdom would wish to consult with its allies and partners on any further response. I said earlier that the Foreign Secretary will raise this matter with the Saudi authorities at the earliest opportunity; I understand that that will be in very early course indeed.

Lord Dholakia (LD): My Lords, according to Saudi Arabia’s official press agency, 37 people were killed yesterday in a mass execution—as rightly said. Most, if not all, were convicted in the specialised criminal court, or SCC, the kingdom’s secretive and widely condemned anti-terrorism tribunal. At least three of those executed were juveniles at the time of the alleged offences. Most of the people executed were from the Shia community. This is a flagrant breach of international standards. I ask the Minister: will she not follow Germany’s example and finally suspend UK arms sales to Saudi Arabia? As a start, is this not also something we should do in relation to Yemen?

Baroness Goldie: I respond to the noble Lord by observing that the UK operates one of the most robust export control regimes in the world. That includes looking at risks relating to human rights violations as a key part of our assessment against the consolidated criteria. I reassure him that defence exports are under careful and continual review.

Lord Deben (Con): Would my noble friend agree that there comes a moment in which partnership becomes complicity? There really seems to be a serious issue here. I know it is difficult, but unless the Government give us some idea that there will be a step beyond condemnation, however strong and common in the European Union, it really will begin to look as if the United Kingdom overlooks activities in Saudi Arabia that it would not overlook elsewhere. That is really difficult to stomach.

Baroness Goldie: On the last part of my noble friend’s question, under no circumstances does the United Kingdom overlook this any more than our EU partners. There is no doubt about the strength of feeling reflected in the statement by the EEAS. I reassure my noble friend that we represent our concerns in the very strongest terms. That is one of the benefits of having a partnership: we can be blunt in our comments and on a personal level. A judgment will always have to be made when dealing with other countries, different cultures and different regimes. Is that objective best effected in the public domain, or is it more effectively attained through private conversations where the strength of sentiment and the sense of condemnation of unacceptable practices are crystal clear?
Lord Cashman (Lab): My Lords, a partnership is of no value unless the other partner is listened to. I am grateful to Reprieve for the information it has supplied to me and to other noble Lords. Thirty-seven people have been executed today in the Kingdom of Saudi Arabia, three of whom were juveniles at the time of their alleged offences. Will the Minister join with others in calling for the release of three others arrested and tortured as teenagers, who are now imprisoned and at very real risk of beheading? Furthermore, will she unequivocally condemn these executions? Otherwise, silence could be perceived as acquiescence.

Baroness Goldie: I think that the Government, particularly through the comments made by my right honourable friend Sir Alan Duncan, have made the United Kingdom’s position crystal clear. We are profoundly concerned by what has happened. We have represented and are representing these concerns. On the allegations of torture, we are aware of reports. We are deeply troubled by these allegations and we certainly unreservedly condemn torture. Again, we raise these issues with Saudi Arabia. The Foreign Secretary expects to be in a position to raise our concerns across a range of matters in the very near future.

Lord Scriven (LD): My Lords, the UN Human Rights Council is there to promote and protect human rights around the globe. In hindsight, do the Government regret sponsoring Saudi Arabia as a member of that body? Will they lobby to have Saudi Arabia taken off the council?

Baroness Goldie: It is the case that the United Nations is an important forum. There is no doubt about that at all. The UK is a strong supporter of the UN General Assembly’s resolution for the moratorium on the use of the death penalty. We use our position bilaterally to lobby Governments to establish moratoriums to abolish the death penalty. We raise individual cases of British nationals and partner with world-leading NGOs to reduce use of the death penalty. We use our position unreservedly to condemn torture. Again, we raise these issues with Saudi Arabia. The Foreign Secretary expects to be in a position to raise our concerns across a range of matters in the very near future.

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We could not have retained the right to withdraw as it stands because an absolute parental right up to 18 years old is no longer compatible with English law and the European Convention on Human Rights. Where a head teacher makes an assessment of the request, their assessment will be based not on their personal principles or an assessment of the parents’ beliefs but on the particular circumstances of the child. Good practice will be for the head teacher to discuss the request with parents and, as appropriate, with the child to ensure that their wishes are understood, and to clarify the nature and purpose of the curriculum. Head teachers will be required to make a reasonable decision and expected to document the decision-making process.

It would not be right for the department to list all the exceptional circumstances that a head teacher should take into account, as this could distort their decision or be seen as definitive. However, to provide some reassurance, in the other place my right honourable friend Minister Gibb previously set out an example that schools may want to take into account. One scenario might be where a head teacher turns down a parent’s request because the child has had a sexual incident in the school. We expect levels of withdrawal to be very low; the Catholic Education Service notes presently that the withdrawal rate from sex education in Catholic schools is 0.01%.

We are committed to ensuring that every school will have the support it needs to deliver these subjects to a high quality. We will invest in tools that improve schools’ practice, such as a supplementary guide to support the delivery of the content set out in the guidance and targeted support on materials, as well as training. The £6 million that we have announced for the development of these tools is an initial amount for the 2019-20 financial year. It will be used to develop a central programme of support for schools; it is not funding to be distributed individually. We are also encouraging as many schools as possible to start teaching the subjects from September of this year so that we can learn lessons and share good practice ahead of compulsory teaching. We are also committed to reviewing the guidance every three years from the point of first teaching. This will enable us to monitor the implementation of these subjects and make changes in future where required. We will of course take action sooner if any considerable issues occur.

We believe our proposals are a landmark step and, after an extensive debate in the Commons, we have gained strong cross-party support for what these subjects seek to achieve by equipping children and young people with the knowledge they need to form healthy relationships, lead healthy lives and be happy and safe in modern Britain. I beg to move.

**Baroness Massey of Darwen (Lab):** My Lords, I welcome these guidelines and thank the noble Lord, Lord Agnew, for introducing the Motion. I am very pleased to see that this topic of education will at last be a requirement for schools from September 2020. Indeed, some schools will pilot the programmes and there is encouragement for some to start them during 2019.

Some schools are ready to go with this but others may need more time. Quite rightly, the Government have sought to stress the issue of consultation. We know...
that sexual relationship education has been considered important by children, parents, school governors and many organisations for a long time. I pay tribute to those who have worked with such diligence to get us to this point. The noble Lord, Lord Nash, deserves full credit for his determination to ensure that schools engage with the important topic of the rights of children to receive information and develop good attitudes towards sexuality and relationships. He recognised that resilience, confidence and self-esteem are important components of performing well at school and having a fulfilling life.

I congratulate the PSHE Association on its constructive and thorough approach to developing and creating materials for schools. I congratulate those organisations which have been helpful with consultation and have developed training materials for schools. I congratulate, too, those who have had the courage and perception to insist that consideration of the needs of all pupils is important. LGBT pupils have rights, too; disabled children have rights. Attention to such groups is important, not just for them but for their parents and fellow pupils.

Many individuals have helped describe and respond to the climate in which children are living today, as did the Minister just recently. That climate is different from the one in which we grew up. For example, we have social and other media, which may portray unhealthy and dangerous attitudes towards relationships and sexuality. Children and young people need resilience and skills to resist such approaches.

I have a few questions for the Minister and a few matters on which I seek reassurance. Will the decision that academies and free schools will not be required to teach sex education, but simply be encouraged to do so, be reviewed? This will affect a great number of children and leave them disadvantaged in relation to protection from harm and gaining important knowledge.

I was surprised that so few children and young people were involved in the consultation. I hope that any assessment of the effectiveness of programmes will involve them. They are the best judges of what they need. It is most encouraging that children are consulted much more on issues and decisions which affect them, such as in relation to the NHS long-term plan, where there was a children’s panel—and very useful it was, too. Many voluntary and statutory organisations have children’s panels which prove so valuable. I hope that Ofsted inspections will incorporate the views of children among their other considerations.

It is also important that school governors and parents are involved in monitoring these issues. There is a case for local communities to be involved, as envisaged in the guidelines. I note that £6 million has been set aside in the 2019-20 financial year to develop a programme of support for schools. Funding beyond that will be a matter for the forthcoming spending review. What type of support is envisaged? How will funding be decided for individual schools? Will the Minister and the DfE fight for funding to develop and maintain such programmes, monitor their outcomes and share good practice?

Some of us have concerns about discussing certain issues with children and young people and worry about “corruption”. These guidelines make it clear that teaching materials should be age appropriate. I taught, a long time ago now, sex and relationships education in an inner-city, multi-faith secondary school. We were scrupulous about consulting parents and children and had very few difficulties. No child was ever withdrawn from any part of the programme. I remember working with a nun, Sister Mary, on a sex education course. She said, in public:

“I and my Church may not approve of some of the things related to sexual activity. This does not mean that we should refuse to discuss them. Refusal to discuss denies knowledge to children, and the denial of knowledge is against good educational practice”.

I have never forgotten what she said.

We must never forget in the midst of all this that the welfare of the child is paramount, as spelled out in the UN Convention on the Rights of the Child, to which the UK is a signatory and which celebrates its 30th birthday in November this year. The convention is inspirational in envisaging a world where children flourish and where their physical, emotional and social needs are met. With this legislation today, we move a step towards that, and I very much welcome it.

Lord Storey (LD): My Lords, this is a landmark moment for children and young people in our country and I very much welcome it. I congratulate the Government and the Minister on everything he has said. If there were ever a reason to ensure that our young people had proper relationship and sex education in our school system, it came home to me this morning when I went into my office, where a letter was waiting for me with a card in it. It was a vile piece of information, trying to compare the teaching of relationships and sex education to giving up smoking. It had such comments as:

“Being gay is essentially lonely because the truth is that most gay partnerships are unstable and have a strong tendency to be promiscuous”.

There was more, but I do not wish to read the rest out, because it is so horrible. That sort of warped view about relationships in 21st-century Britain shows how strong is the need for an education system that addresses the issues in the way the Minister explained.

During the coalition Government, Edward Timpson took over the role of Children’s Minister and was looking to develop the PSHE curriculum and the sex education curriculum, as it was then called. My noble friend Lord Paddick and I were asked to meet him—he wanted to talk about that curriculum. I remember saying to him, “This is very good, but the important thing is that we have almost a dual education system here. We have maintained schools, an increasing number of academies and free schools, which of course have a much more relaxed approach to what they teach. Will this be taught in all schools?” He said, “Yes, it will”. Hallelujah, I thought. I asked whether such things as contraception and gay relationship would be taught. He said, “Yes, of course, it will”. And in church schools? He said, “Yes, of course, it will”. That was the breakthrough moment that I and many in this House were waiting for and I think that, alongside the Minister and the noble Lord, Lord Nash, Edward Timpson MP, as he then was, deserves a deal of credit in this as well.
[LORD STOREY]

When I first started teaching, sometime in the 1970s, we had an eight-week period in which we followed the BBC's “Merry-Go-Round” sex education programme—eight weeks of watching the television and doing the workbooks. Not one single parent complained, those eight year-old pupils never giggled or sniggered and it actually developed their relationships with each other. That programme continued and was updated over the first 10 years of my teaching. I always thought it was a great pity that we almost became Victorian in our approach to such issues as sex education; we went through those difficult times in the 1980s and 1990s, with some rather nasty thoughts about relationship education.

As well as the praise I have given, there are a few things we need to ensure. I think the Minister said this, but I just want to go through them again. It is vital that teachers get quality training. I am pleased that it will be a rollout; some schools and some staff may be ready, but it is important that we get this quality training for teachers right. It is important that the resources and materials are of the highest calibre. It is also important that when school inspections are occasionally held, Ofsted actually looks at the quality of relationship and sex education.

I have three questions for the Minister. First, the Government used the powers in the Children and Social Work Act to make PSHE compulsory in all schools, including academies, for health education only. Why not for citizenship and financial education? Let us raise that now while we have the opportunity. Secondly, this matter is also about continuing professional development for teachers. Thirdly, as the Minister knows—he has been very active on this issue—there is a still a large number of unregistered religious schools where the teaching about relationships is horrendous, disgraceful and wrong. So far, only two unregistered schools have had action taken against them. We need to get this right. We need to put in place the legal requirements to close these establishments straightaway because the damage they do to young people and young minds is not to be tolerated.

5.30 pm

Baroness Deech (CB): My Lords, I want to say how much I welcome the new guidance and regulations. In fact, the drafting of the guidance is brilliant; I compliment whoever drafted such nuanced and sensitive guidance for schools.

My main fear is that teachers will need protection. As the noble Lord, Lord Storey, said, some of the objections to these regulations are so blinkered and bigoted that one fears very much for the children and the teachers who may be subjected to this sort of unfortunate propaganda. In fact, the children in the care of such people may be the ones most at risk of female genital mutilation and abuse. For their sakes, as well as everybody else’s, the facts must be taught.

At my girls’ public school, the chapters in the biology textbook on the reproductive habits of the frog—the frog, my Lords—were removed in case we got the wrong idea. This did not hold me back until I became the chairman of the Human Fertilisation and Embryology Authority, when this gap in my knowledge caused some concern, at least temporarily. However, I managed to catch up.

The new regulations are welcome because they say that misogyny and homophobia must not be tolerated. They are not saying that any particular way of life must be promoted or forced on children—far from it. In fact, as I read it, the guidance strongly supports marriage and parental guidance. Parents should not fear because, if they have a different viewpoint to whatever is taught in school, they can point out to their children at home that they do not approve of it. However, that does not mean that the existence of different lifestyles and sexualities should not be taught in school. Indeed, children will probably get something far worse from watching things online or from their classmates than they will ever be taught at school. It is a matter of regret that primary and secondary schoolchildren could be withdrawn from sex education. The ones who are withdrawn will probably get a much worse representation of what is going on when they ask their classmates what they have missed.

Put simply, I very much welcome the regulations. What steps can the Minister and his department take to protect teachers from ill-intentioned members of governing bodies and hostile parents, who might make the lives of those teachers—who are only doing their job—very difficult?

Baroness Meyer (Con): My Lords, I apologise for arriving a bit late. I hope that noble Lords will forgive me.

Like the noble Baroness, Lady Deech, I think that a lot of things in the regulations are really good. I am a bit more conservative; I fear that I consider sex education something that is rather more private. However, it is necessary. I started life in a Catholic school. In those days, of course, we were taught nothing. Then, at the age of 12, I arrived at the French lycée, where I had to face boys and had no idea how to behave.

Anyway, that is the past and today I want only to be sure of one thing and to ask two questions. First, can the Government assure this House that the regulations are fully consistent with the obligations to parents’ rights under the Universal Declaration of Human Rights of 1948 and the Human Rights Act 1998? I ask this question in particular: is it consistent to downgrade parents’ current right to choose whether to enrol their children in sex education classes? Is it right to demote the rights under the Universal Declaration of Human Rights of 1948 to the status of secondary rights? I ask the Government to affirm that this is not the case but is in fact a recognition of the rights of parents to choose how their children are taught.

Further, on another subject, in her report Preventing Child Sexual Abuse, the Children’s Commissioner noted that 90% of primary schools still use Stranger Danger as a PSHE subject. Action against Abduction, the charity I founded and of which I remain president—I hereby declare my interest—has shown that Stranger Danger is out of date and ineffective in keeping children safe. One of the main reasons for that is that, obviously, most predators, especially sexual predators, are family members or friends of the family, not strangers. The charity that I founded came up with a new, much more effective, initiative, Clever Never Goes, which means that children learn how to behave when they feel that they are in an uncomfortable position. The regulations
note that children can now go and tell their teachers that they were in an uncomfortable situation. Five hundred schools have already adopted our programme. Will the Government refer to Clever Never Goes in guidance so that schools can give children the best advice on how to stay safe from sexual predators?

Lord Cashman (Lab): My Lords, I refer your Lordships to my registered interests as well as to my role as patron of the Terrence Higgins Trust. I begin, unusually, by associating myself with every word of the contribution of the noble Baroness, Lady Deech. I think she got it absolutely right. I also agree with my noble friend Lady Massey.

Interestingly, I too received the letter referred to by the noble Lord, Lord Storey, but I did not throw it away because it reminded me of the opposition to equality, tolerance and understanding—three things that should be at the very heart of all education. The letter said that lesbian, gay, bisexual and trans relationships were short and lonely. Perhaps my 31-year relationship with Paul Cottingham was short compared to others—I do not know—but certainly it was never lonely and I certainly felt completely fulfilled.

What about the children in schools who come from same-sex families—who have same-sex parents? Are not their relationships and their families’ relationships as important and as viable? Should they not be properly represented, discussed and given equivalence with other loving relationships? Of course they should.

As soon as we put sex and education together, the bonfire starts—especially the bonfire of misinformation. Of course parents will and do maintain control. As was said earlier, whether a parent wishes to teach a child outside school according to their faith or none is entirely up to them. But, please, let us also remember that people of all faiths and none are also lesbian, gay, bisexual and trans. It is vital that children and LGBT children receive comprehensive and inclusive sex and relationships education. In this regard I recommend to your Lordships a book to be published in June entitled Celebrating Difference: A Whole-School Approach to LGBT+ Inclusion by Shaun Dellenty. I have been privileged to see an advance copy.

I commend the Government for the guidance and regulations, and the noble Lord, Lord Agnew, for the way in which he has presented them this afternoon to your Lordships’ House. I am grateful also to the other subject, if you please.

My Lords, I refer your Lordships to my registered interests as a governor of Coram. For 24 years I had the privilege of being the chairman of the largest educator into primary schools in the United Kingdom of health and drug education. During the course of my chairmanship we reached about 5 million children. We have quite a lot of experience of the challenges of teaching children about difficult subjects appropriately. I shall return briefly to the subject we spoke about this afternoon in the Cross-Bench meeting: it is difficult to teach an extraordinarily difficult and sensitive subject such as this really well. It is an enormous burden to place on a primary school teacher, with all of the pressures on them from all sides, to teach this really well; in a way that makes them feel proud as a professional; in a way that makes the children feel that they are learning something important; in a way that the parents feel respects the family and their own code of morality, but which is also appropriate for the strange and complex world of the 21st century in which the children are growing up. We cannot run away from it—it is all around us. Children spend an inordinate amount of time on social media and on their phones; if somebody does not teach them appropriately, you can guess where else they will learn it from, and whatever they learn, it will almost certainly be hilarious but perhaps disastrously wrong.

5.45 pm

I therefore emphasise the importance of this being taught well. I suggest again that while £6 million to help training in the first year is welcome, it will be woefully inadequate once this is rolled out nationally, and I appeal for continuous assessment from the very start of the trial to get feedback on what is working well and less well. Lastly, again, as we mentioned this afternoon, please can we do something very un-British and un-English and learn from best practice in other countries which have been doing this for much longer than us, particularly the Netherlands?
Baroness Tyler of Enfield (LD): My Lords, I declare an interest as vice-president of the charity Relate and president of the National Children’s Bureau. I also thank the Sex Education Forum for circulating an absolutely excellent briefing.

I warmly welcome these regulations, which are a huge step in the right direction. It is such an important area. We know—all the survey evidence tells us—that the vast majority of parents want schools to teach relationships and sex education but to do it well. Anyone who has been involved in this area will tell you that effective relationship and sex education is a partnership between parents and schools; parental involvement is integral to the new guidance, and I warmly welcome that.

For me, it is hugely significant that this guidance is on RSE: relationships and sex education. For many years, when I was more involved in this area at a more operational level, it was always called SRE: sex and relationships education. You might think that that is a tiny difference and terribly pedantic, but it was not. At that time it was always called sex education, and people would always start to get terribly exercised and worked up about it. The fact that we are now talking about relationships first and then sex within relationships is hugely important, and I want to explain why.

It is absolutely critical that relationship education, when taught well, should be able to promote safe, equal, inclusive, enjoyable, fulfilling relationships, and should be taught in a way that fosters gender and LGBT equality. Sadly, some children are not seeing models and examples of safe, inclusive and healthy relationships at home, so it is absolutely vital, as other noble Lords said, that children understand what is and is not acceptable with regard to how they are treated by other family members, particularly if there is inappropriate touching or abuse, so that they know that they can say, “No, that’s not acceptable”, and know who they can go to for help and support. I also feel that it is extremely important that safe and healthy relationships are explained in terms of adult relationships, because again, sadly, some children witness abusive adult relationships within the home and do not understand that that is not acceptable either, too often themselves entering abusive relationships in their teenage and adult years. That is why this fundamental teaching of the importance of healthy and safe relationships is so very important—and important to much wider aspects of public policy.

I will briefly make two other points. As other noble Lords said, the way that relationship and sex education is taught is absolutely fundamental. Good teaching is important. Indeed, I saw in a recent poll that 80% of parents think that RSE teachers should be properly trained to teach it, and I am sure that we all agree with that. When I used to talk to teachers who delivered what was then called sex education in the classroom, they would often say that they felt quite embarrassed teaching it, they did not feel properly supported, and did not have the proper materials. They did not have the confidence to do it, but were almost being told that they had to go out there and do it. The schools I saw and spoke to that did it most successfully, as often acknowledged in Ofsted reports, were schools where the teacher was working in partnership with external, usually voluntary sector organisations that had experts very well taught in relationship education. Can the Minister confirm whether the £6 million fund for supporting relationship and sex education which we have heard about can be used to help teachers to understand how best to work with external experts who can be invited in to deliver aspects of the curriculum? That is an important way in which all this really good guidance can be taken forward and implemented.

The Lord Bishop of Durham: My Lords, it is my pleasure to follow the noble Baroness, Lady Tyler, and I fully endorse everything she said about the context of relationships being at the heart of all this. I welcome the discussion and the framework. The Church of England, as the biggest single education provider in the country, has been among the parties engaged in the consultation, for which we are deeply grateful.

As human beings, we are relational. Relationships with others, and indeed with God, matter. They are primarily formed rather than taught. Our parents, siblings, wider family and friends shape our ability to relate from our first breaths. Our love for God shapes how we relate to people. We do well to remember that any relationships education can only ever be rooted in our experience of relationships, both good and bad; yet education is required.

Given the rapid and drastic change to society in what has been almost two decades since the existing legislation was introduced, I am enthusiastic about updating the policy. When that guidance was written, fewer than 10% of households were connected to the internet and connection speeds were snail-like.

The guidelines are to be commended in their placing of RSE and health education in the context of wider personal development of character, virtues and values. Conversations about relationships will be empowered by discussions of honesty, courage and humility. Sex education is crucially paired in this framework with conversations about relationships: an incredibly important shift in how the curriculum is constructed. I understand that much of the response has been against existing resources that may flex the guidance too far. There has been a great misunderstanding of the requirements of the new framework, but many of those misunderstandings and concerns are rooted in at least some truth.

I am pleased that schools must take into account the faith background of pupils and work in collaboration with parents in drawing up their policies, and that they must consult parents on the planning of sex education and the resources used. It is worth noting in this debate that the Church of England has been in close contact with our Muslim friends, who share a number of our concerns.

I am also glad that sex education will be optional in primary school. However, I am deeply concerned that the same cannot be said of relationships education. Psychologists, ethicists and paediatricians often debate at what age and developmental stage it is appropriate to be exploring early concepts of relationality and sexuality. For example, girls continue to hit puberty earlier and earlier, while the average age of boys maturing remains more constant. How are schools to come to a
conclusion about how and when they teach on such issues, and how will such decisions and resources then be adequately monitored? This is particularly important in the light of the comments made by other noble Lords about the importance of teachers being well trained, well prepared and able to teach the subject well.

Development is not uniform, and parents should be able to determine what is appropriate for their children, especially during vulnerable ages. Why cannot parents decide regarding what is appropriate for their children be respected?

The relationships curriculum highlights the unique space that families occupy in our society, often acting as a nurturing space for children. It teaches children to respect the diversity of families. Although its motives are honourable, I do not believe it lives up to its own standard in respecting the diversity of parental concern. In other deeply necessary spaces, the framework fails to give sufficient guidance. It is imperative that children are taught from a young age of their bodily autonomy so that they may be able to identify unsafe touch. How will such safeguarding teaching, which is necessary, be widely taught without extending into sex education, which the parents may have opted out of?

I support the emphasis that my noble friend Lady Massey placed on ensuring that the voice of children and young people is listened to carefully in future in reviewing the outworking of the guidance. The voice of children and young people themselves needs to be placed alongside the voice of the parents. The Minister may have seen my right reverend friend the Bishop of Ely’s comment piece in the TES welcoming the new guidance in his role as lead bishop for education. Our concern is that the views of others, especially respecting the beliefs of people of faith—and, indeed, some of no faith—about parental responsibilities and rights, are not simply brushed aside. The lines between relationships and sex education are far more blurred than is recognised, so I ask that great care is taken to monitor that this does not lead to inappropriate sex education being offered at an early age in the name of relationships education.

I conclude by returning to my opening point. Relationships are primarily formed, not taught. The family is the key place where this happens: schools apply only to the sex education element of relationships education. I will come back to that. Even where a parent chooses to withdraw a child from secondary school sex education, that decision can be vetoed by a head teacher. I find that deeply concerning.

I realise the Government have given assurances—including in the excellent guidance that accompanies these regulations, referred to already by my noble friend Lady Deech—that the power of head teachers to refuse withdrawal will rarely be used. However, I could not find that assurance in the regulations themselves: it is not there. The law will simply say that the request must be granted.

“unless or to the extent that the head teacher considers that the pupil should not be so excused”.

That unequivocally gives the head teacher the final say. It is only the guidance that says this power is to be used rarely, and guidance can change. This is a fundamental change to the current position. In my view, the right of withdrawal should have been retained in full.

6 pm

During the passage of the parent Bill in 2017, the then Minister for Vulnerable Children and Families said in the other place:

“We have committed to retain a right to withdraw from sex education in RSE, because parents should have the right, if they wish, to teach sex education themselves in a way that is consistent with their values”.

[Official Report, Commons, 7/3/17, col. 705.]

I could not agree more with that final comment, but I believe that these regulations potentially undermine that commitment. If there are any further assurances the Minister can give on this, I would be most grateful.

Whatever our views might be—I take the mainstream Christian view of relationships and sexual ethics—we must surely accept that relationships education will involve sensitive topics on which people hold strong opinions. The scrutiny committee’s report rightly urges us to remember this. It is potentially divisive. For evidence
of that, we need look no further than the situation at Parkfield Community School in Birmingham. I make no comment on the rights or wrongs of what happened there; I simply cite it to demonstrate that parents hold strong views on these issues. The last thing we need is for parents to feel they are being ignored. It does not help a child’s education when the relationship between their parents and the school breaks down.

Of course, someone might ask why the withdrawal right is necessary if it is rarely used—indeed, the Minister mentioned this in his opening comments. However, it is the principle: that it is ultimately for parents to decide these matters. The risk of parents withdrawing if the school gets it wrong encourages schools to give due weight to parental feedback. That will be lost if head teachers know they can override the views of parents. It is this shift in the relationship between the family and the state that I find most concerning—that the state, or the head, knows best. We need to consider this very carefully. There is a huge risk that, as a consequence of these regulations, schools will find themselves in dispute with parents where no dispute existed previously.

I return to my point about practicality. We are told that there is a right to withdraw from sex education but not relationships education, either at primary or secondary school. But is this realistic? How can it work in practice? As has been already said, the lines are very blurred. If the two cannot be separated, will the right to withdraw be applied to both, or will it effectively be overridden by the school and applied to neither? I press the Minister to give clarity on that precise point; it is a very important question that has not yet been addressed.

I do not want to sound completely negative. As has been referred to already, there are a lot of positives about these regulations, but there are some aspects we can recognise as important. They are not overly prescriptive, which is welcome, and faith schools in particular will benefit from the freedom to choose. However, what about teaching staff who have a faith conviction and work in non-faith state schools? We are already aware of the sad case of Kristie Higgs, who was sacked for expressing concerns about a conflict with her Christian convictions. How many more teachers or teaching assistants are going to find themselves in impossible situations?

Parents must be consulted on topics and materials well ahead of time, so that there can be genuine opportunity for feedback and for their concerns to be taken on board. Channels of communication must be kept open. The views of parents must be properly understood and proper processes must be in place to ensure that schools understand fully the views of parents. I ask the Minister to think about the serious risk of usurping parental rights and handing further control to the state. Nothing ranks as more important than the education of our children.

**Lord Mackay of Clashfern (Con):** My Lords, it is natural for me to want to start at the protocol—which the noble Lord, Lord Curry, has just mentioned—to the European Convention on Human Rights. In 1977, I lost the action under that protocol that the UK Government took in relation to corporal punishment in schools, so I am reasonably familiar with that provision. In this connection, under the human rights legislation, it is still the law here that the Government—the state—have a duty to ensure that the teaching is in accordance with the religious and philosophical convictions of the parents. That is a very strong right.

Of course, it is difficult. If you have parents with different religious convictions, how do you go about it? There is a European Court of Human Rights case that deals with this—it is even older than the one that I lost. It deals with statutory provisions introduced in Denmark. One of the arguments used against the provisions was Article 2 of Protocol 1. The court said this, which I think is very useful:

“...The second sentence of Article 2 implies on the other hand that the State, in fulfilling the functions assumed by it in regard to education and teaching, must take care that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner. The State is forbidden to pursue an aim of indoctrination that might be considered as not respecting parents’ religious and philosophical convictions. That is the limit that must not be exceeded.”

In relation to the state’s duty, it points out later on that, although it is always possible that something may go wrong, “competent authorities have a duty to take the utmost care to see to it that parents’ religious and philosophical convictions are not disregarded at this level by carelessness, lack of judgment or misplaced proselytism”. That is a very useful way of looking at this. As the right reverend Prelate the Bishop of Durham said, religious convictions vary; different people have different convictions. Therefore, if you are to teach according to those convictions, you have to be mighty careful. The answer appears to be that you do it in such a way that is “objective, critical and pluralistic”.

The mailbag that I have had has been mainly from people objecting to the replacing of the withdrawal right with an option to request withdrawal and asking me very strongly to vote against these regulations. I have decided not to do that, because these are very difficult matters that are required to be dealt with. Your Lordships will know that my primary concern is the best interest of the children, and it is very important that that be safeguarded. As has been said, we live in very dangerous times, and children grow up in difficult situations with many temptations, grooming and what not. It is mighty difficult to deal with these without help. I strongly support what was said by the noble Lord, Lord Russell of Liverpool, about the need for teachers to be very well provided for in this. I cannot think of a more difficult area than this in which to teach.

Another point has been brought to my attention by experienced doctors in this area. The health implications of various aspects of this matter can be very serious indeed. Accordingly, it is important that that aspect should be taught and is compulsory under these regulations. That is extremely important, but extremely difficult for teachers. I notice that the assessment says that there will be no effect on any other department, but I would have thought that the Department of Health might have a strong interest in providing the necessary help to teachers to be able to deal with these serious issues.
So far as I am concerned, what has been said to me is mainly about withdrawal, and I do not see that withdrawal has much bearing on the protocol. The protocol is not on requesting withdrawal but on teaching in accordance with the religious conviction of the parent. That is where the difficulty arises, as the court saw. Therefore, it has to be objective in every respect.

This is a very difficult area and a great deal of thought has been given to it. I am glad to think that there is time for even more thought in the light of all that is said today and what was said in the debate in the House of Commons before the perfect solution is found.

Lord Farmer (Con): My Lords, it is a great honour to follow my noble and learned friend, Lord Mackay of Clashfern, and I agree with much of what he said.

I will touch on three issues: first, on the specifics around parental rights to withdraw children, much of which has been spoken about already; secondly, on whether the Government will help to develop the relationships and sex education curriculum through an innovation fund; and, thirdly, on the role of the inspectorate, as the noble Lord, Lord Storey, mentioned earlier, in applying the new curriculum requirement.

On the first point, can the Minister clarify whether the Government’s intention is the same as was stated in 2017 by the then Minister for Vulnerable Children and Families during the passage of the Children and Social Work Act:

“We have committed to retain a right to withdraw from sex education in RSE, because parents should have the right, if they wish, to teach sex education themselves in a way that is consistent with their values” — [Official Report, Commons, 7/3/17; col. 705.]

That would mean, for example, that if for reasons of religious belief a parent withdraws their child from sex education up to age of 15, the right of withdrawal will be respected. Currently, the proposals seem to put the final decision firmly in the hands of head teachers not parents, as they are given a power of veto on parents’ wishes. The Secondary Legislation Scrutiny Committee quoted the draft guidance, which states that, “except in exceptional circumstances, the school should respect the parents’ request to withdraw the child, up to and until three terms before the child turns 16”.

However, no attempt is made to define “exceptional circumstances”. We need definition of this phrase and specifics, otherwise these will be defined on an ad hoc basis. Any business contract including such language would be rejected by a good lawyer because of the vulnerability that it introduces. I understand that this is guidance, not legislation, but guidance is where the specifics should be.

The Secondary Legislation Scrutiny Committee suggested that the House might wish to invite the Minister to provide further clarification about how the ability of parents to withdraw their children will operate in practice in relation to different age ranges. I do so now because, after these draft regulations were laid before Parliament, the Secondary Legislation Scrutiny Committee received evidence from over 430 members of the public. All expressed concern about the regulations and many made it clear that they were Christians and that their concern arose out of their religious belief.

The committee set out the main issues raised in these submissions, including:

“A very widespread concern to protect the right of parents to educate their own children on matters such as relationships and sexual health”.

One particular quote stood out to me:

“The assumption seems to be growing that it is the state which educates children, assisted by parents. It should always be the other way round. It is the parents’ job to educate, train and guide their children” —

And, as the right reverend Prelate emphasised, those relationships should be formed at home — “and the state should not take this upon itself”.

6.15 pm

Parental involvement in how relationships and sex education is delivered is also very important. This can be encouraged and improved if a large part of the curriculum is digital and online. Parents can be given access to the modules, learn what their child will be taught and, if necessary, communicate with the school. A high level of transparency about the content of the education will also assist teachers when faced with parents raising concerns.

I move on to my second point, which is about the curriculum. Can my noble friend inform the House whether the Government have looked into the potential for digital solutions to help parents, schools and children work in partnership in the delivery of the new curriculum? This may help sustain and build on good relationships education beyond the classroom and dissipate parental concerns about withdrawing children. Proposals have been made in response to the original consultation for an innovation fund which could help develop these digital tools to support the new curriculum and, crucially, help to develop the evidence base which is needed. We need to know what works in relationships education. That is not yet very clear, particularly in the United Kingdom.

Thirdly, another key issue emerging is how the new curriculum requirement will be applied by Ofsted. How Ofsted interprets schools’ delivery of relationships education and relationships and sex education will be of material concern for schools. The draft inspection framework was out for consultation until 5 April, for rollout in September. This is ahead of the implementation of the relationships education, relationships and sex education and health education curriculum requirements. Can my noble friend assure the House that the new guidance and regulations and good practice will be embedded in the new Ofsted framework? At present, the draft inspection framework does not appear to give any reference to the new relationships education/RSE curriculum and how, for example, it will apply to an inspector’s judgment about whether British values have been promoted. For example, the section from the draft inspection framework on personal development that refers to British values is devoid of reference either to relationships or to the new curriculum, yet if relationships education and RSE are implemented well, this should have a direct bearing on the inspector’s judgment in this area. Will my noble friend ensure that the chief inspector and her inspectorate are fully aligned to the new curriculum and its requirement, explicit in primary legislation and now guidance, to have due regard to the age and religious background of pupils?
This is something we ought to be concerned about and do something about. We need a broad view that reflects modern Britain in relationships and sex education. I think these guidelines are progress in that direction, and that is why I support them.

Lord Hodgson of Astley Abbotts (Con): I am a member of the Secondary Legislation Scrutiny Committee under the chairmanship of the noble Lord, Lord Cunningham. The committee scrutinised these regulations, and I shall give the House a remark or two about our very lengthy discussions, which are reflected in the report to which several noble Lords have referred. In this very sensitive area, the Government have achieved a good balance, but it is a balance and there are contrary views that need to be heard.

When you serve on the Secondary Legislation Scrutiny Committee, you struggle away in decent obscurity most of the time, but not when you deal with regulations such as these because we had a huge volume of inquiry. The noble Baroness, Lady Donaghy, who is on the committee with me, will testify to that. Certainly in all the years I have served with the noble Lord, Lord Cunningham, and before that with my noble friend Lord Trefgarne, there has never been the volume of outside representation that we received on this occasion. There was some from those who the noble Baroness, Lady Deech, and the noble Lord, Lord Storey, would say are mad, bad and dangerous to know, and there were certainly some people who had a write-around—you could see that they were all part of a group writing around—but among the more than 400 contributors there were people who had serious concerns, and it would not be right for us to ride roughshod over them in the interests of not addressing their concerns fairly.

If we work on the basis that understanding conquers all, what I learned from our discussions and from reading those particular representations was the difficulty people have in distinguishing between relationships education and relationships and sex education. It is proposed that the first is taught throughout the time a child is at school. Children can be withdrawn from relationships and sex education at the parents’ behest at any time until the end of primary school, and then during secondary education parents have some rights until three terms before the child is 16, and then after that the school is much more pre-eminent in its ability to decide what is right for the child. Those who wrote in to the committee felt that it is not who is being taught but what is being taught that concerns them. This takes me back to the point about the difference between relationships education and relationships and sex education. As the right reverend Prelate the Bishop of Durham pointed out, there is concern among those who feel this way—and their concerns need to be addressed—that the two will morph into each other, and that is why I hope that the Minister when he replies will take up the point made in our paragraph 28:

“The House may wish to ask the Minister for a fuller explanation of the interrelationship between these two subject areas”.

That is a fair point that was put to the committee by very many people.

The second point where the Government can reassure those who have concerns is about consultation with parents. We dealt with that quite extensively in
and advice to schools in order for them to meet the children from sex education provides sufficient clarity. own consultation, which shows that over half—54%—of As of yesterday, almost 117,000 people had signed a change in the way in which the state regards its relationship. The far-reaching constitutional implications of the much bigger than relationships and sex education. alter the relationship between parents and the state. The regulations before us today therefore fundamentally law, and they remove the final decision from the law, final decision about whether to withdraw a child from school sex education would, for the first time, rest with the head teacher, not with the parents. I fully accept that the guidance says at paragraph 47 that, “except in exceptional circumstances, the school should respect the parents’ request to withdraw the child, up to and until three terms before the child turns 16”.

However, the Government have made little attempt to define “exceptional circumstances”, and ultimately the guidance is just that—guidance. The regulations define the law, and they remove the final decision from parents and place it in the hands of the head teacher. The regulations before us today therefore fundamentally alter the relationship between parents and the state.

This issue is consequently, in an important sense, much bigger than relationships and sex education. The far-reaching constitutional implications of the change in the way in which the state regards its relationship with parents has caused real concern in many quarters. As of yesterday, almost 117,000 people had signed a petition calling on the Government to maintain the right of withdrawal.

A similar message came from the Government’s own consultation, which shows that over half—54%—of respondents disagreed with the suggestion that the new right of parents to request the withdrawal of their children from sex education provides sufficient clarity and advice to schools in order for them to meet the legal requirements. Only a third of respondents—34%—agreed. What is the point of running consultations or having a petition process if the Government just ignore the feedback that they receive and carry on?

The Government have offered only the flimsiest of justifications for the far-reaching changes that they propose, simply stating in their consultation document: “A right for parents to withdraw their child up to 18 years of age is no longer compatible with English case law or the European Convention on Human Rights”.

Crucially, the Government have not published their legal advice to back any of that up, which makes it impossible for us as lawmakers to properly scrutinise these proposals. In this context, I want to ask two things of the Minister. First, will he set out the relevant case law to the House? Secondly, is he saying that the Supreme Court has made a human rights declaration of incompatibility with respect to the right of parents in the existing legislation to withdraw their children from relationships and sex education? I am struggling to see how Parliament can be constrained by either.

In the first instance, if Parliament does not like the direction of case law, it is its prerogative to introduce new statutes to send the law in a different direction. In the second instance, even if the Supreme Court were to rule that our arrangements were incompatible with the European Convention on Human Rights, this would neither have the effect of changing the law nor require that Parliament should change the law. Section 4 of the Human Rights Act is absolutely clear that the only thing that Parliament must do in response to a declaration of incompatibility—and of course, none has been given here—is consider it.

In that context, although the Government could of course decide to shift, as a matter of law, the final decision about withdrawing children from the parents to the head teacher, I am not at all convinced that they are obliged to make this change by an irresistible legal imperative. The fact that the Government have chosen to make this proposal in the absence of any such imperative suggests to me that they have embraced a statist mindset alien to true Conservative political philosophy. Their instinct should be to trust parents first, not the state.

During the Children and Social Work Bill debates, the Minister said that the Government wanted children to decide about RSE from up to three terms before they turn 16. Rather than removing the right of parental withdrawal from that point, however, the regulations replace the right of withdrawal with a right to request withdrawal—with the head teacher making the final decision—from the age of 11. In this sense, the regulations treat 11 year-olds and their parents in exactly the same way as they treat 18 year-olds and their parents.

Particularly concerning is that when Labour tried unsuccessfully to make a similar change in early 2010, through Clause 14 of its Children and Families Bill, it provided far more and far better reassurances to parents. Specifically, Clause 14 proposed that the right of withdrawal should remain completely intact until a child is 15. The Conservative Front Bench opposed that more modest change because it undermined the role of parents, yet today we see a different approach from the Conservative Front Bench.
With that in mind, I conclude by quoting from the 2016 Supreme Court judgment against the Scottish Government and their profoundly misconceived statist “named person” scheme. The UK Government would do well to keep this in mind:

“Different upbringings produce different people. The first thing that a totalitarian regime tries to do is to get at the children, to distance them from the subversive, varied influences of their families and indoctrinate them in their rulers’ view of the world. Within limits, families must be left to bring up their children in their own way. As Justice McReynolds, delivering the Opinion of the Supreme Court of the United States famously put it in Pierce v Society of Sisters, ‘The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations’.” I ask the Government to think again.

Baroness Barker (LD): My Lords, the process by which we have arrived at the document before us has been very lengthy. There has been a very extensive consultation, and Members of all parties in both Houses who took part in it and have brought the matter to this point should feel proud of what they have done. Two people who have not been mentioned today deserve a degree of recognition. As Ministers in the department in the early stages, Justine Greening and Nick Gibb started this process and saw it through. Today, we have arrived at a very well-considered set of proposals, which are a compromise. Inevitably, a compromise is open to attack from both sides; none the less, this one is rather important.

I, like the noble and learned Lord, Lord Mackay, believe utterly in the welfare of children being paramount. I noticed that in referring to certain cases he went back to 1977, but he will know that one of the opening statements of the Children Act 1989 is that the welfare of children is paramount. I happen to believe that that means that no child should be withdrawn from education designed to protect their welfare, but I am prepared to concede that parents should have a right to withdraw their children up to a point. I believe the Government have been right to set the age limit to the point where a child is within three terms of reaching 16 because we know that children at that point are extremely vulnerable, particularly if they have not had education about what represents safe relationships and sex.

I took part in two meetings that were part of the wide consultation that brought us to this point. One was a meeting with Nick Gibb. The noble Baroness, Lady Massey, was there giving us the benefit of her years of wisdom and experience. Nick Gibb made the point, which was also eloquently put by the noble Lord, Lord Hodgson of Astley Abbotts, that some people are ideologically opposed while some have genuine concerns about what might be taught to their children; we should not equate the two.

I wish we could trust every parent to do the right thing—we cannot. I wish we could trust every teacher to do the right thing—we cannot. But teachers are subject to inspection and regulation of what they do so, ultimately, if a child is missing out in school, it will be found in that way. It is important therefore that, on balance, we give educators a greater role in this than perhaps some people would like.

I want to address the point made by the right reverend Prelate the Bishop of Durham about why it should be important to teach relationship education in primary schools. The education of small children—children in primary schools—is about educating them to understand the world. They learn from the world around them. They learn from the relationships that they know and understand. It is a process of explaining to children what good relationships are, which may not be the relationships they know. This is important. It is about educating them as individuals to know what a good relationship is like and what should be happening to them. It is not about encouraging them to develop sexual relationships inappropriately at a young age; it is the opposite. It is about protecting them from relationships that are inappropriate.

The Lord Bishop of Durham: If the noble Baroness heard me say that I do not believe relationship education should be given in primary schools, she completely misheard me. What I raised was the question of whether parents should have the right to withdraw their children if they so wish. I agree with everything the noble Baroness has just said about why we teach about relationships in primary school.

Baroness Barker: In that case I hope that, when the right reverend Prelate looks at some of the materials from the Catholic Education Service and from the NSPCC—its PANTS materials, for example—he will understand that it is possible to arrive at an education in primary school that should be acceptable to a parent who wishes the best for their child.

In view of all this, I have two points to raise with the Minister. First, it is laid out in these regulations that all schools must teach relationships and sex education, and they will have to teach what the law says in this country. They are at liberty to do this within an overall framework that is compatible with their beliefs, but they cannot choose not to educate children about the law. So where parents or pupils find themselves subject to education built upon materials that do not fulfil that part of the guidance, what would be the route through which they can seek a remedy?

Finally, I want to talk about a subject that has not received much attention at all: that is, disabled children. I am co-chair of the All-Party Parliamentary Group on Sexual and Reproductive Health. While the consultation was going on, we had a meeting and brought into Parliament people who are disabled and people who are specialists in talking to children with disabilities as part of sex education. It is an incredibly difficult and embarrassing thing to do. Bear in mind that some of those children will be cared for in institutions by some of the same people who are doing the educating. It is very highly skilled work.

6.45 pm

I was deeply struck by the words of a deaf woman who works with deaf children. She expressed such alarm to us that these children were learning from pornography—they were picking up from it stuff that they felt...
was normal, because adults were embarrassed to talk to them. I know that the Minister’s department has an aversion to developing national materials. I understand that, but I wonder whether he could make an exception on that subject with regard to children with learning disabilities. The noble Baroness, Lady Hollins, has spoken to some of us at different times about developing materials that are appropriate for people with learning disabilities. I wonder whether, during the implementation process, some of the Government’s £6 million budget for this area—I have to say that it is wholly inadequate—could go to what is a very specialised service for a very small number of people. I believe all children deserve to be protected.

Lord Elton (Con): The noble Baroness is quite right. This is an extraordinarily difficult area for teachers to teach in and, sometimes, for parents to talk about. I endorse anyone who says we should provide sufficient money to train teachers to do this, and give them the actual materials to use. If developing these centrally helps to make it easier, I would be in favour of that as well.

I had an awful lot to say but, unfortunately, most of your Lordships have said most of it already. I therefore welcome, first, the fact that we recognise that children must be taught to see the world as it is and not as some of us want it to be and, secondly, that we recognise that there are legitimate differences between our views on some of these issues. Sometimes these views are extremely strong. It is therefore predictable that there will be challenges to a change in the law that diminishes and, in some cases, extinguishes, the right to withdraw children. The noble Lord, Lord Morrow, has kindly indicated two areas on which the Government need to ensure they are briefed: the provisions in the European Convention on Human Rights and English case law which, between them, make it necessary—unavoidably so—to end the complete right of withdrawal that existed until now. This is sure to come up in the courts so it would be helpful to your Lordships to know about it.

On the subject of withdrawal, I have one small suggestion. The cases will be fairly numerous but nothing like as numerous as some others. Those cases where parents object to the withdrawal of their right to withdraw will be sufficiently few as to have no consistent form or yardstick. I wonder whether the Government should consider creating an appeal body which, by its rulings, could develop what the courts would call case law: some sort of yardstick to which teachers could refer in coming years as it is built up, as to what is acceptable.

To me, the actual administration of the teaching of these subjects presents great difficulties, because the calendar age and the biological age of children are never, or very rarely, absolutely in step. Therefore, the points at which a child should be moved into a different room, or treated differently from others in some way, and then made different and embarrassed, are very difficult to determine.

As I said, your Lordships have said a great deal; it has been a wise debate. It has also been an encouraging debate—it has certainly encouraged me. I regarded the whole of this subject with great apprehension when I started reading it, but if the Government can sort out the difficulty over the mixing of relationship education and sex education, and the withdrawal interface, then this can turn into good legislation. However, that means the inspectorate needs to keep a close watch on how this develops and we need to know parental reactions to it. My mailbag and those of my noble friends have been rather different from those of the noble Lords, Lord Storey and Lord Cashman. We have had very large numbers of letters from Muslims, Jews and Christians; those cares have to be catered for. We must see what the reactions are and have a report; first, after three years, when those who are not in the first flight will have two years’ experience, and then, probably, five or 10 years later. Mores change in society and we will have to change the legislation with them.

Lord McCrea of Magherafelt and Cookstown (DUP): My Lords, I think everyone would agree that our young people are growing up in an increasingly complex world. Many are the voices that beckon our young people, whether they are our children or youths in society. It is correct to acknowledge that this legislation does not apply to Northern Ireland. But, as one who believes in the union and being part of the United Kingdom, I think it is important to bring to the attention of this House the fact that the pressures of legislation for England quite often come to Northern Ireland. Therefore, it is important to raise some concerns. My noble friend Lord Morrow of Clogher Valley certainly raised many of these issues in his excellent and thoughtful contribution, and I will not repeat those to which he has already drawn attention.

I am encouraged by the high number of responses that the Government received concerning this legislation. But, after the responses were given, suggesting a high level of opposition to the Government’s plans, one has to ask: what is the use? Had the majority of the responses been in a different direction, they would have been greatly used as evidence for why we should move forward with this legislation. But, of course, they were not. It seems strange that the Government have downplayed the responses, which are certainly very interesting and thought-provoking.

I remind this House that the responsibility to raise our children is one that is given not by man but by God. Children are a gift from God. The scriptures tell us that children are the heritage of the Lord. Parenthood is given by God and parents carry a God-given responsibility and authority for raising children. Many children in this nation were taught:

“Honour thy father and mother”.

That is a very important foundation for raising children. In Ephesians, chapter 6, we are reminded that children are to obey their parents. It says:

“Honour thy father and mother; (which is the first commandment with promise):”.

That is also important. We are also reminded that parents are given the responsibility to “train up” their children. That is recorded in the Book of Proverbs, in chapter 22, verse 6:

“Train up a child in the way he should go: and when he is old, he will not depart from it”.

Therefore, in my opinion, anything that undermines this is of great concern and is a radical shift with far-reaching consequences.
Sex and relationships education is primarily the responsibility of parents. I noted that the noble Baroness, Lady Barker, said that she wished she could trust every parent. I wish I could trust every person. I wish I could trust the state. Do we undermine parents—those who desire to honestly and honourably train up their children and fulfill their God-given responsibility to raise them in the fear, nurture and admonition of the Lord? Parental responsibility must be maintained and parental rights of withdrawal from sex education ought also to be maintained.

Today, it seems popular to give sex education to children that ignores biblical standards. I know that drawing this noble House’s attention to this is not popular, but I did not come here to be popular. I came to be honest to my convictions and to honestly state what I have preached for 50 years and believe with all my heart. That seems to be something that is frowned upon. I believe that ignoring biblical standards is damaging to our young people. Whose standards are we teaching? Do we want society’s standards? Do we want what is regarded by society as acceptable? We have to be careful.

I notice that this very day a Statement from the Foreign Secretary in another place concerning the persecution of Christians was repeated here. We talk about the persecution of Christians, but if someone stands up and states Christian principles, it seems that he or she is frowned upon. Even in this House, these views seem to be less acceptable than those of others who have different opinions. I believe that respect is something of vital importance and that we ought to have respect as a standard—respect for the family and for others. That is something I wholeheartedly support.

We talk about relationships. Relationships within the family and society are also something of vital importance. With this legislation, for primary school children, we find that relationship education is something on which a parent does not have the final say. Yet how do you draw a clear line of distinction between relationships education and sex education? And who draws that line? I also think we ought to acknowledge that there are teachers in state or maintained schools who have strong biblical convictions. What about them? What are their rights? Will they be forced to teach what they do not believe, or things that go against their religious convictions?

When the Minister winds up, he has to address the point raised by the noble and learned Lord, Lord Mackay of Clashfern. The duty is not to compromise the parental responsibility or the teaching that is opposite to the religious and philosophical conviction of parents. That is not to be disregarded. I fear at times that that is set aside whenever it comes to this situation, because the draft statutory guidance states that, “except in exceptional circumstances, the school should respect the parents’ request to withdraw the child, up to and until three terms before the child turns 16”.

Of course they are to respect the parents’ request, but the headmaster is given a greater responsibility and authority over the parent. That is a dangerous situation whenever we come to children being taught to honour their parents, which I believe is a basic right and a fundamental standard for any civilised society.
Lord Watson of Invergowrie (Lab): My Lords, I thank the Minister for introducing these regulations. Noble Lords have contributed to what I can fairly say has been a wide-ranging debate, and certainly a very interesting one.

These regulations relate to issues that I believe are fundamental for the human rights of everyone in the UK, both adults and those young people who have yet to achieve that status. As my noble friend Lady Massey said, they are overdue and we welcome their introduction, although they could be more robust in one important respect, as I will mention.

As the right reverend Prelate the Bishop of Durham said, a major change in the world that young children are growing up in since the sex and relationship guidance was last updated two decades ago is the development of the internet and the spread of social media. Of course social media has benefits, but it can also have a genuinely detrimental effect on the lives of children.

Another instrumental factor in the legislation that provided for these regulations was the growing realisation and acceptance that LGBT people and rights, and that it is not for the state to dictate the dynamics of family life. It is poignant to remember this on the day of the funeral of the murdered journalist Lyra McKee, whose life stood for treating LGBT people equally, especially in a part of the United Kingdom where those rights are currently often denied.

Many noble Lords will recall the progress two years ago of the then Children and Social Work Bill though your Lordships’ House. The key change to the Bill was made in another place, when a new clause was tabled by Maria Miller MP with the cross-party support of almost 50 other MPs, most notably my colleague Stella Creasy, who had long campaigned on the need for LGBT education. The new clause was given enthusiastic support by several children’s organisations and the Terrence Higgins Trust, which, allied to the broad base of support from MPs, led the Government to table their own amendment. So, from September next year, relationships education will be compulsory in all primary schools in England, and relationships and sex education will be compulsory in all secondary schools, with health education compulsory in all state-funded schools. That is an appropriate response to the identified risks that children and young people might face and the need to support them to be safe, healthy and manage their academic, personal and social lives positively.

By that same deadline all schools must have in place a written policy for relationships education and relationships and sex education. Schools are meant to work closely with parents when planning and delivering the subjects covered by these regulations.

I do not think that comes close to the proselytism referred to in the powerful contribution by the noble and learned Lord, Lord Mackay. There is obviously a need to reassure parents about these regulations, not least in some faith communities. However, it must be stated unequivocally that there can be no opt-out from the Equality Act 2010. We have to ensure that all schools understand their legal obligations. It is essential that they work with their wider communities and resist any attempts to push back from the gains that we have made—often with great difficulty—over recent years.

For all the positive change that has been achieved, as my noble friends Lord Cashman and Lord Liddle said, nearly half of all lesbian, gay, bisexual and transgender young people are bullied at school because of their sexuality, and half of them do not tell anyone about it. More than three in five lesbian, gay and bisexual young people have self-harmed, and the figure rises to more than four in five among trans students. We have a duty to ensure that all young people are
provided with the tools they need to navigate a course through situations and events that are at best confusing or challenging, and at worst frightening. As the noble Lord, Lord Scriven, said, schools should offer a safe space.

At the point at which schools decide that it is appropriate to teach pupils about LGBT issues, they should ensure that this is fully integrated into their programmes of study, rather than delivered as a standalone unit, a fact that I was pleased to see supported by the Government, who articulated it succinctly in their response to the consultation on these regulations:

“Pupils should be able to understand the world in which they are growing up, which means understanding that some people are LGBT, that this should be respected in British society, and that the law affords them and their relationships recognition and protections”.

Ensuring that parents are involved in planning what is taught in their children’s schools as part of these regulations is important, but parents must not be allowed a veto on school policy, particularly when that policy is following the law. Recent events at schools, particularly in Birmingham, related to the introduction of the No Outsiders content in the curriculum have attracted a disproportionate amount of attention. In response to these events, the Secretary of State has written a helpful letter to the National Association of Head Teachers, stating that:

“What is taught, and how, is ultimately a decision for the school. We trust and support head teachers to make decisions that are in the best interests of their pupils”.

The only slight issue I have with Mr Hinds’s letter is that not many parents outside school gates will read a letter of three and a half pages to the general secretary of a trade union. A well-publicised visit by the Secretary of State to Parkfield school in Birmingham, standing in support of the head teacher, would have said much more than the letter.

My colleague Wes Streeting MP spoke powerfully when these regulations were debated in another place last month. He suggested that when schools are talking about the importance of having no outsiders and celebrating diversity and difference, the parents need to ask themselves who they think the teachers are talking about. As he said, it is not just the gay child at the front of the classroom. It is the Muslim children in the playground, the Christians who are still persecuted—horribly in Sri Lanka, as we saw just three days ago—and the Jewish people who are subjected to a rising tide of anti-Semitism. I echo his pointed question:

“How dare people, in defence of their own difference, seek to stifle the freedoms and equality of others?”—[Official Report, Commons, 20/3/19; col. 1162.]

I want to finish on a practical point that I raised with the Minister when these regulations were discussed in your Lordships’ House in February. I did not get an answer then, so I am returning to the subject. We agree on the need for these reforms, but we must ensure that they are properly implemented. The Government have said that there will be £6 million budgeted for school support, training and resources. However, if that were to be spread across all of England’s 22,000-plus schools, it would amount to around £250 per school. I agree with the noble Lord, Lord Russell, that the Minister cannot believe that such paltry amount will enable schools—let us not forget that many are already under huge financial pressures—with the resources they need to deliver this new curriculum. That figure simply must be increased. This is emphatically not political point-scoring. At the heart of relationships education, relationships and sex education and health education, there is a focus on keeping children safe, informed and prepared for life. We are united in wanting that aim to be fulfilled. It must not be frustrated by a lack of resources.

7.15 pm

Lord Agnew of Oulton: My Lords, I am grateful for the many comments on these emotive issues, and will attempt to address them all. I have been asked to be as brief as possible, so I will have a balancing act to do.

I acknowledge the support of the noble Baroness, Lady Massey. She raised the question about the teaching of this in academies and free schools, and I reassure her that these regulations, if passed, will apply to all state schools in England. That is the biggest impact of this statutory instrument. Until now, academies have been asked to teach a broad and balanced curriculum but not specifically to cover the issues raised in this statutory instrument.

The noble Lord, Lord Storey, made a strong point in asking why other issues such as financial education are not included. We tried to give autonomy to schools in the way they construct their curriculums. We need to keep that under review, to be honest with you, but at the moment, this is how the system is working. On the very important issue of unregistered religious schools, it is important to say that it is an offence to run an unregistered independent school, and that we are clamping down on that. We have provided additional funding to Ofsted for inspections of those institutions where we discover them. I am happy to write with some more details on that.

The noble Baroness, Lady Deech, talked about potential hostility to teachers. We discussed that at the Front-Bench meeting earlier today. It is also worth saying that sex education is being taught in many schools at the moment—this is not a sudden change being imposed across the whole school system—but I completely accept her concerns. It will be a matter for schools to ensure that their teachers are properly supported, and we will keep this under close review.

The noble Baroness, Lady Meyer, asked about compatibility with the convention rights. The advice we have is that when laying the regulations for debate, the Secretary of State is expected to certify that in his view they are compatible with the convention rights; he would not have been able to do that with the regulations on the absolute right of the parent to withdraw. I will cover that issue a little later, as it has been raised by several other noble Lords.

The noble Baroness also mentioned the out of date regulations. As noble Lords will see, we have worked hard to pull together the various regulations into one single instrument. That makes it easier to ensure compatibility with the convention rights; it would be very hard to do that with a number of different regulations. I acknowledge that there will be issues that we have not covered, and I will certainly take on board the advice that noble Lords have given me to ensure that they are addressed.
The noble Lord, Lord Cashman, asked about education in issues such as HIV and sexual health. I can confirm that it will be part of the RSE curriculum at the secondary stage, and that it will continue.

The noble Lord, Lord Russell, asked about the quality of training—a subject that came up quite a lot—and the amount of money, on which the noble Lord, Lord Watson, finished. The £6 million is a small sum of money and is only for this current year, so we will bid in the spending review for additional resources. Turning to one of the points raised by my noble friend Lord Farmer, it is also important to stress that this money is very much for good digital resources. That is where we will point some of this money. A number of organisations are already producing some of this information: for example, the Catholic Education Service, the PSHE Association, and the Royal Foundation of The Duke and Duchess of Cambridge and The Duke and Duchess of Sussex. The information is starting to come out and the role of the department is to quality assure it, and to signpost the schools to the resources that we believe are best.

One issue raised in the Cross-Bench meeting earlier was an example of some inappropriate material that was being publicised. I can certainly commit that our department will be rigorous in ensuring that if that sort of thing occurs, we will not recommend it and will use whatever powers we have to make sure that it is not part of the system.

The noble Baroness, Lady Tyler, made a strong point about the regulations being named so as to refer to “Relationships and Sex Education”. As I mentioned earlier, we have been teaching sex education but, until now, often probably quite poorly. The whole point of this instrument is to put relationships at the heart of what we teach children, rather than teaching sex as a slightly disembodied and taboo subject. The two need to come together because, as the noble Lord, Lord Scriven, said at the end, it is about understanding the power of these relationships early on. They can otherwise lead to a great sense of isolation.

The right reverend Prelate the Bishop of Durham raised a number of points. He asked about determining the age-appropriateness of teaching the sex element of relationships and sex education, and the ability to separate the two. I cannot offer him a magic wand for how those two things are separated, but we start with the principle that healthy relationships are born out of understanding how those two things are separated, but we start with the principle that healthy relationships are born out of understanding what we teach children, rather than teaching sex as a slightly disembodied and taboo subject. The two need to come together because, as the noble Lord, Lord Scriven, said at the end, it is about understanding the power of these relationships early on. They can otherwise lead to a great sense of isolation.

The right reverend Prelate also asked about Ofsted, which was raised by several other noble Lords. It has recently consulted on a new arrangement for school inspections but while it will not be making a discrete judgment on the delivery of RSE, there will be a strong emphasis within the new inspection arrangements on schools ensuring that pupils access a broad and balanced curriculum. That will include the new requirements around these subjects and there will be a new judgment on pupils’ personal development, which is of course very relevant to these areas.

Lord Elton: My Lords, my noble friend may be coming to this again later, but I think that we need to have a progress report to the House in a year or two, or three, on how this is all working. I hope that he will take note of that and at least think about it with his colleagues.

Lord Agnew of Oulton: My noble friend makes a good point. I will certainly encourage the department to do that. We are all aware that this is a big change. As the noble Lord, Lord Watson, said, it is the first change in two decades. We are dealing with a whole new set of phenomena out there, in the shape of social media and the internet, which we are now starting to tackle head-on. It would be absolutely appropriate for us to review that, so I will certainly take that back to the department.

The noble Lord, Lord Curry, raised a number of points. I will start on sex education with what is covered in relationships education at secondary level and how we know what a child can be withdrawn from. This is at the core of the right-to-withdraw issue. I know that there is some concern from noble Lords about that right to withdraw, but it is absolutely clear that a parent has the right to withdraw other than in exceptional circumstances. My noble friend Lord Farmer was worried that we have not defined those circumstances, but it is extremely difficult to do so, because we are not dealing in a commercial world here. We are dealing with human beings and their emotions, and with different reactions to similar situations. I can assure noble Lords who are worried about the right to withdraw that the guidance is statutory. It cannot be ignored by schools; they must have regard to it and have a very good reason to set aside anything that is in the statutory guidance. Again, we have tried to strike that difficult balance to address the rights of the child and the rights of the parent. We are clear that parents remain the primary educators of children and we absolutely want to stick to that line.

The noble Lord, Lord Curry, also asked about religious groups. We have engaged with the whole spectrum of religious schools. It is of course worth remembering that we have at least 6,000 state-funded religious schools in this country and they have been a very important part of the stakeholder engagement. We have had strong support from the Catholic Education Service, the Church of England and the Board of Deputies. It has been a long process, but I believe we have got to a point where those groups are broadly happy.

The noble Lord, Lord Curry, was also concerned, as some other noble Lords were, about teachers expressing their own views. The noble Baroness, Lady Massey, made an insightful comment in her speech at the beginning about teaching alongside a nun, who obviously had strong views about sexual relationships but she acknowledged that it was still her duty as a teacher to provide an objective and unbiased education on those subjects. That is a very important point: all of us are prejudiced in some form or another, but when teachers are teaching, they have to put aside those personal views and try to give an unbiased opinion as possible.
My noble and learned friend Lord Mackay raised some important and technical issues, and I will certainly not try to take him on in matters of law. Just to take one or two issues regarding faith freedoms, in all schools when teaching these subjects the religious background of pupils must be taken into account. Schools with a religious character can build on the core content by reflecting their beliefs in their teaching. In developing these subjects, we have worked with a number of faith bodies, as I have just mentioned, and schools can also consider drawing on their own expertise when delivering those subjects.

My noble friend Lord Farmer was also concerned about the “exceptional circumstances”. I have tried to address that and am very happy to continue dialogue with him on it, as we learn more about it. It is perhaps worth restating that a number of schools will start to teach this on a voluntary basis in September of this year. We already have about 1,000 schools which have signed up to the pilot; we expect that to increase and we will learn from their experiences in the process.

7.30 pm

The noble Lord, Lord Liddle, made supportive comments for which I am grateful. It is worth restating that the core of this is relationships, which is where we should start. There is no reason why teaching children about the diverse society that we live in, and the different types of loving and healthy relationships, cannot be done in a way that respects everybody’s views. Schools should ensure that the needs of all pupils are appropriately met and that all pupils understand the importance of equality and respect, in particular respect for difference. The new guidance is clear on the teaching about LGBT relationships expected in secondary schools and encouraged in primary while retaining the flexibility for head teachers to respond to the needs of their own schools.

My noble friend Lord Hodgson asked about the blurring of subjects, which I tried to address. Our view is that they complement one another. As I mentioned in my opening remarks, schools will be expected to consult parents, to explain the structure of their curriculum in these subjects and to get feedback. We have also said that we expect schools to refresh that periodically so that new parents arriving in a school are also included in those discussions.

The noble Lords, Lord Morrow and Lord McCrea, are clearly passionate Christians, and I absolutely respect that. Again, as I tried to say earlier, this is about trying to strike a balance. While we are respectful of the Christian community—as I mentioned earlier, we have had strong support from both the Catholic Education Service and the Church of England—we also have to respect other members of our society who have different views. I have tried to provide some reassurance that the guidance is statutory, so it cannot just be ignored.

On providing the legal evidence, unfortunately the convention to reveal legal advice is in the gift of the Attorney-General and is not for me, but there is a bigger point here which was raised by the noble Lord, Lord Scriven: it is about the rights of the child as well as those of the parent. That is a difficult balance to achieve. As I mentioned in my opening comments, the Catholic Education Service estimates the number of children withdrawn under the right to withdraw at the moment to be 0.01%, so we are talking about an extremely small cohort in the overall number of children in our system. If that number were to go up, clearly we would need to look at it. My noble friend Lord Elton asked about an appeal body if we see an increase in the number of appeals. We would certainly keep that under close consideration.

I thank the noble Lord, Lord Watson, for his broad support for this statutory instrument. He asked a specific question about academies’ complaints procedures. I reassure him that it is an absolute requirement that every academy has at least two parent governors on the governing body of individual schools. They are there to deal precisely with his concern about any sense of remoteness. Beyond that, a parent can of course write. It is a requirement that all academies have a complaints procedure which is on their websites, so a parent can go down that route. If they are still unsatisfied at the end of that—this applies to everything and not just to this issue—they can take the matter up with the ESFA, which is essentially the regulator of academies.

Lord Watson of Invergowrie: I thank the Minister for that interesting description of the complaints procedure, but it was not the point that I raised. I was talking about the means available to parents of children who are in an academy as part of a multi-academy trust which has its own governing body. Often, the schools within that do not have their own board of governors or even a committee—call it what you like—to which individual parents can feed in. In the context of these regulations, if we are deciding what is taught in a particular school, that is important. If parents do not have that link—because it is perhaps a manager at the academy trust headquarters making the decision—it is a gap that needs to be filled.

Lord Agnew of Oulton: I am certainly happy to write to the noble Lord to clarify that, but I reassure him that each academy school will have a governing body. There may be some instances where a governing body operates over two or three schools, if they are small schools, and they may be called academy councils rather than governing bodies, but there is a representative body beneath the academy board—there may be instances that I do not know about, but I would be very surprised. To link back to my opening comments, academies as well as local authority schools will be required to consult parents in their construction of these curricula.

The noble Lord raised the budget issue. I understand that £250 a school sounds somewhat derisory. We will be looking at training for newly qualified teachers and at how we can provide more training as part of that preparation for teaching. We will of course keep a weather eye on the quality of the online materials made available and will gain experience from the pathfinder schools that start teaching this from September this year.

I believe that we all share an ambition to ensure that our children and young people have the knowledge to help keep themselves safe, to be prepared for the world in which they are growing up and to respect
others and difference. These regulations give us the opportunity to build a consistent foundation across all schools so that children and young people have the knowledge they need to manage their academic, personal and social lives in a positive way. For the reasons that I have set out, I commend the regulations to the House.

Motion agreed.

Residential Construction and Housing Supply

Motion to Take Note

7.36 pm

Moved by Lord Bourne of Aberystwyth

That this House takes note of the residential construction sector, modern methods of construction, and the steps being taken to boost the housing supply in a sustainable way.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, I apologise for the delay to this debate—by either three weeks or three hours depending on which calendar you are working from—but it is a great pleasure to introduce it. We will be looking at the residential construction sector and focusing in particular on modern methods of construction and the steps being taken to boost housing supply sustainably. I am grateful to noble Lords who have given up their time to be part of the debate and to share their experience and knowledge of this important issue.

We all recognise that the country does not have enough homes. For decades, the pace of housebuilding has been much too slow, which has meant that the number of new homes has not kept pace with our growing population. We are now building the homes that our country needs so that everyone can afford to call their own, helping people on to the housing ladder and restoring the dream of home ownership—but of course looking at diversity of supply at the same time.

Last year we delivered 222,000 new homes—the highest number in a decade and up 2% on the previous year. To address the housing shortage, the Government have reaffirmed their commitment to deliver 300,000 homes a year by the middle of the next decade. However, the way in which the housebuilding market operates constrains the supply of new homes, because there is insufficient competition and innovation. That is why, back in February 2017, the Government’s housing White Paper recognised the potential to diversify the market and set out clear measures for how we would do this, including by backing small and medium-sized builders to grow; supporting custom build homes to access land and finance; encouraging more institutional investors into housing, including the build-to-rent sector; and supporting housing associations and local authorities to build more homes. We have been actively implementing the commitments that we made.

We also recognise that building more homes requires a modern construction industry with greater capacity to deliver. Building more homes using modern methods of construction—MMC—including off-site and smart techniques, is a key part of this.

A number of reviews have highlighted the challenges faced by the industry. For instance, in 2016 the Government commissioned Mark Farmer to carry out a review of the construction labour market. His report, Modernise or Die, set out the skills challenge facing the construction industry and the need to improve the construction labour market by increasing productivity and innovation, including the use of modern methods of construction in housebuilding as a test case for construction more widely. I had a very useful engagement with Mark Farmer at our recent design conference in Birmingham. We agreed on the need for action to drive the Government’s agenda to increase uptake of MMC.

In addition, the report of the House of Lords Science and Technology Committee’s inquiry into off-site manufacture in 2018 across the construction sector as a whole, Off-site Manufacture for Construction, is extremely helpful and provides food for thought.

We have looked to other countries too, particularly across Europe, where MMC is embedded within the delivery model and is therefore widely used and accepted, to help inform our initiatives. Countries such as Sweden have shown how it is possible to innovate the market with MMC techniques, building more homes than traditional models allow, and delivering good-quality, efficient homes that are embraced by the public. I know that Britain can become a world leader in MMC and I want to work with the sector to make that ambition a reality. I am committed to delivering the Government’s ambitions to build more of the right homes in the right places, and keen to play a major part in delivering the ambitious package in the housing White Paper to fix the housing market.

As many noble Lords will know, I am very keen on better design and quality. Lack of diversity and competition has not been good for innovation and productivity. This is why the Government have made design quality of homes a top priority and have strengthened the importance of design quality in our revised national planning policy framework, which was announced by the Prime Minister at a national conference of planners a year ago, in March 2018. I am pleased that convening the Building Better, Building Beautiful Commission is a step in the right direction towards delivering on this priority. We have also recently announced the appointment of a head of architecture in the department. He is working to create a cross-government network to promote good design, developing a design manual to underpin design quality in national policy and ensuring that design quality criteria are embedded in government programmes.

For too long we have been overly reliant on a small group of large developers delivering in mostly traditional ways. To increase rapidly the pace of building and reach our housing delivery ambitions, we need to increase the range of producers in the market and the types of homes that they are delivering. We need a market that is more focused on the consumer, delivering to those parts of the market that are currently not well served—in short, a diversified market that can lead to more homes being delivered faster, with significant financial benefits, while delivering high-quality new-build homes. I know that modern methods of construction have a
[Lord Bourne of Aberystwyth] key role in powering the future of housebuilding, building high-quality homes with a smaller carbon footprint at a much faster pace, while embracing the latest technology and promoting British jobs.

New technology and innovation has improved productivity, quality and choice across a range of sectors in the United Kingdom, and we want to see the same happen in housing. We have been actively implementing the commitments we made in the housing White Paper to diversify the housing market. We are backing our housebuilders to deliver, with £2.5 billion of our £4.5 billion Home Building Fund, which particularly champions SMEs and more diverse builders to harness MMC and other cutting-edge building technologies. For example, we recently announced £9 million of funding from the Home Building Fund for a deal with Apex Airspace to deliver homes on London rooftops. These rooftop properties will be built on five sites across the capital: Tooting, Wanstead, Walthamstow, Putney and Wallington. They will be largely constructed off site before being winched on top of buildings, minimising disruption to residents. It is expected that the first three sites, comprising 32 homes, will be ready by this summer.

We have also delivered on our commitment to set up a joint MMC working group with lenders, valuers and the industry to overcome existing uncertainties about the performance and durability of MMC homes and their acceptability for warranty and insurance, and to identify measures that could give greater confidence in the quality of these homes, to allow lenders to overcome their existing caution and increase lending to match that of traditional builds. At the design conference I referenced in Birmingham, I announced one of the outcomes of our MMC working group’s work: an agreed definition and categorisation for all MMC. This definition framework has now been published on GOV.UK and will help guarantee consistency in MMC definition and categorisation across the sector. This is perhaps not glittering and exciting at first sight, but it is extremely important in ensuring that we have standardisation and the ability to move forward in helping people borrow money.

The group is also finalising details of its most important output: a unified quality assurance scheme for assessing all new technologies to guarantee their acceptability for mortgages and warranties, which will be launched this summer. All these are key parts of making sure that we use more off-site construction to meet our challenges. The Government are also keen to see local authorities accelerate construction programmes and take direct action to disrupt the market in a new and innovative way. Furthermore, our affordable homes programme encourages bidders to use innovative ways of building. Homes England is working with 23 strategic partnerships—this was announced at the end of last year—and so far all 23 have indicated that they will incorporate MMC in meeting the challenge of providing more homes.

There is a real opportunity to seize the benefits of new technology here. It is encouraging to see new entrants into the field, such as Ilke Homes from Yorkshire, which plans to deliver 2,000 MMC homes per year in the next two years, and TopHat of Derbyshire, with capacity to deliver 2,000 homes per year across the country, as well as interest from housing associations such as Swan Housing, which opened its factory in Basildon in 2017. In addition, local authorities around England also recognise the benefits of MMC and are interested in supporting the growth of this innovative approach to housebuilding.

It is important that large housebuilders, too, see a role in this. The Government want to create a shared vision for a diversified housing market that embraces innovation, and we look to large suppliers too. It is encouraging to hear about some large developers, such as Barratt, Berkeley, L&Q and Crest Nicholson, which are already embracing MMC and actively looking into future opportunities. The Government expect other large developers to embrace this agenda as well. Diversifying the market, both by increasing the mix of producers and tenures and ensuring that it delivers a greater variety of products, will result in additional homes. These are challenges that we must respond to.

We announced £34 million at Budget 2017 for construction skills: this will also help. I know that there are still many out there who have yet to see how using MMC can benefit them and their customers. We want to support the industry to showcase what it can achieve. We want to see solutions that increase productivity and quality. We also want to challenge the public perception of MMC homes and give customers information about new technology, how it works and what the benefits are. I beg to move.

7.47 pm

Baroness Thornhill (LD): I thank the noble Lord for bringing this debate to the House. Looking at some familiar faces, we have had some cracking good housing debates over the last year to 18 months. I have to tell the Minister that there is a growing consensus around the issues and around the solutions, so I agree very much with the thrust of what he said. My contribution to this debate is my firm belief that by either adding to or reprioritising government housing finance, which is currently very heavily skewed to subsidising homeowners, and instead championing a social housebuilding programme unseen since the post-war boom period, this could result in a steady market for the emerging MMC industry and give vital support to SME builders, who, as the Minister said, have been squeezed out of housebuilding in recent years. It would add significantly to the overall housing supply, but most importantly it would provide secure, high-quality homes to those who cannot afford decent market housing to buy or rent.

Current housing and planning policies, according to the Letwin review, show a high dependence on a few large housebuilders as the main providers of homes on what we know is a speculative development model which necessitates a low absorption rate on the market. This has resulted in low supply, slow build out and higher prices, alongside rising homelessness and huge increases in the private rented sector. This is mirrored by increasing tenant insecurity in that sector, while the Government spend billions on housing benefit and councils are spending hundreds of millions on temporary accommodation. These, alongside issues
such as land value capture—whose murky depths I have no desire to plunge into, although I am hopeful that others will—point to the need that has been mentioned to bring real diversity to the marketplace if the Government are to achieve their ambition of building 300,000 homes a year, an ambition we fully support. Of that number, some 90,000 should be for social rent, compared with the less than 7,000 such homes built last year. The Chancellor’s recent announcement of the £3 billion affordable homes guarantee scheme is obviously welcome, but when will we get the details? Will it include funding for social housing? We would be churlish not to recognise that there has been some shift back to grant aid for social rent over the past few years, but after a famine, this slight increase is hardly a feast.

It is evident that to get more homes built more quickly, we need a new and separate strand of housebuilding to take place alongside the big boys currently making staggering profits year on year, thus doing very well out of the current system. A new significant social housing sector could provide that strand but it will take money and political will. The scale of building that needs to take place cannot be done on a shoestring. By committing to a serious increase in expenditure for a new stream of social housing, and looking to promote and use new technologies such as MMC, the Government can make a real difference.

Specifically, as a former elected mayor with a positive attitude to offsite constructive, my personal experience of modern manufacturing construction is mixed. It seems that there are clear issues, which the Government need to work with the industry to sort out if this particular mode of building is to be used more widely, as it is abroad. These have been well documented by many organisations, such as the Home Builders Federation, so I will not go into detail. There are simply not enough offsite manufacturers to make a dent in the 300,000-homes target. One issue that surprised me is that there is not enough space to construct and build; for example, a local site of ours could not be used because we did not have the crane space and the road structure for it.

Although there is huge potential, the reality is that investors are slow to lend as the technology is untried and, frankly, the public perception of such homes is far from positive. People moving into one of these homes may find insurers reluctant to insure, or their insurance may be expensive; they may also struggle to get a mortgage on such a property. There are a limited number of suppliers in the supply chain, all of which need more confidence in the industry—I believe that only government can provide that—and several of which have crashed in recent years. However, I am a convert. I believe that these issues can be overcome. I also believe that there is huge potential to be innovative. For example, using MMC, would it be possible to ensure that homes are manufactured to a higher thermal value than conventional builds, thus reducing fuel poverty? The Building Research Establishment in Watford has a stunningly innovative modular dementia-friendly home all ready to go. I say this to the Minister: we could be world leaders in this field.

On a tangential but relevant point, would a well-funded MMC industry be a more benign environment for new recruits and for developing apprenticeships on a sustainable basis to bring some diversity to the construction industry, where only 9% of the present workforce are women?

However, the key issue is funding. Some significant investment has been made by government but we need longer-term security—this is not just about pump-priming—to develop the industry in the long term or, as the Minister said, the whole thing will be stillborn.

Turning briefly to the well-documented shortage of the skills required to deliver homes at the scale and speed we all want, the proposed salary restriction imposed in the immigration criteria and the loss of EU workers who have already left the country begs this question of what plans the Government have to replace these workers, let alone increase numbers to meet future aspirations. At present, the training regime is criticised for being poor and going backwards in terms of delivery. The apprenticeship levy and the construction industry levy for larger firms are hampered by restrictions on what they can be used for, so large sums of money have gone unspent. Can the Minister update the House on the impact of the recent relaxation of the rules to allow subcontractors to benefit? Does he think that it will be enough? It is fair to say that there are chinks of light and positive nudges towards a more sustainable, progressive housing policy, but piecemeal reform will have piecemeal results. We need a concerted effort and strong political leadership to address properly the shortage and quality of housing.

Regarding the impact of a range of new policies to create more homes, particularly permitted development rights to convert office space to residential space without planning permission and the proposed extension to permit shops and other commercial properties to do the same, we believe that such conversions can be successful—but only if they work with local authorities so that decent living and amenity spaces can be created. We would resist any further expansion. Are mechanisms in place to review the impact of such policies? Will the Government listen to the results of the recent consultation, which were overwhelmingly negative regarding expansion?

We welcome the lifting of the borrowing cap. We believe that the right to buy and the discount available should be discretionary and, where possible, allow local authorities to deal with their own circumstances.

Finally, I am aware that the framework for all this lies in the industrial strategy and with the Construction Leadership Council charged with delivering the five-year plan. The Farmer report concluded that the construction industry must modernise or die. As the report is several years old, can the Minister update us on progress as I was unable to find any?

7.56 pm

Lord Patten (Con): My Lords, “sustainability” is used freely but it is not often well defined. However, I am absolutely convinced that one thing in this country is not sustainable: land. They do not make land anymore. You cannot renew it. There is only so much of it and anyone building anywhere has an awful—I choose that word carefully—responsibility to make sure that what is built is acceptable. I say that in declaring my registered interests in two housebuilding companies and an insurance company that, happily, has gone into building off-site homes.
[Lord Patten]

I will address two key issues: the importance of making new houses look good and feel good in good surroundings, and encouraging new building methods if, and only if, they contribute to better building. That still has to be proved; there is a lot of enthusiasm as if this is magically going to change stuff. We must see what these houses look like first because most of them are not in place yet. Once they are, they will of course be irrevocably using the land we cannot renew. I am agnostic; I am not against these new methods. One of the best ways of boosting housing supply—I wish that more building companies would grasp this point—is to make new homes look good, be more acceptable on the landscape in communities and outlive their predicted lifespan, which many quite small houses and terraces have managed to do over hundreds of years in some cases.

The definition of sustainable is “changeless”. Well, we certainly need change in many parts of the housebuilding industry to create places as much as houses and beauty as well as bedrooms for the hard-working people who will live in them. That should be our central concern. I do not want to get involved in great debates about beauty in housebuilding and construction, which causes much anger and wrist flapping. I am perfectly happy to see modernist houses built by people who want to build them if they can afford to and statements made by architects who want to make them. I am just as happy to see people build backward-looking houses that go back into the depths of time, using styles such as neoclassical and Georgian, if they can afford to do so. I am much more concerned about decent homes that look and feel good for ordinary people.

People certainly deserve much better places than the site in southern England I have been monitoring in recent years; I will not mention where it is, let alone its name or that of the mass housebuilder building there, for fear of making its resale problems even greater. Out of sight and out of mind from our own property though it is, it has only just been finished after many years. It has taken a long time to finish the selling of these houses. Extraordinarily enough—this is a little moral tale—the very first show house it built, with many trumpets blown, developed cracks down the side shortly after it was completed and had to be repainted.

This is the reverse of the Government’s hope that building better and beautifully will build more homes. I do not think that many people on the boards of big housing companies ever live in the mass estates that they have built; I can find no address of any director of any major housebuilding company who lives on a large housing estate that their company has constructed. They generally live elsewhere, safely in the countryside, large housing estate that their company has constructed. Generally, I do not think they do and that is shaming. I am an investor in a couple of these companies; my warning is that I like to be a smart investor and get good value for money. Well-built houses mean better profitability and that the value of my shareholding will go up. That is all I want these people to do—not build the sort of houses that do not appeal to ordinary people.

That brings me to the second issue. I welcome these brand new houses that we are seeing built off-site. They are precision built and tailored to a new world where they will be put on-site. It is very good to see factories doing this. There is the TopHat factory in Derbyshire, which is being invested in by Goldman Sachs. Builders are normally lucky to have a big bank following them so that is very good. Equally, the money managers and insurance company Legal & General, in which I also have an interest, has a new housebuilding factory at Sherburn in Elmet near Leeds, which will produce 3,000 units a year. However, we have not yet seen any of these things on-site. We do not know what they will look like. The marketing stuff is full of precision engineering, sustainability, looking after heating loss and other issues, but we have not seen a unit on-site.

For a builder, rather than being outside all year round in all weathers—like today’s weather in certain parts of the country—and very difficult circumstances, it is much nicer to be inside a factory. It is a much safer environment and we might even get better productivity by producing houses in that way, which I am thoroughly in favour of. We could also build up apprenticeships in the right way. I do not believe, however, that we have yet proven that energy efficiency and sustainability—another word they love—are magic solutions.

On that point about sustainability I shall end. I do not think my noble friend the Minister used the word in his speech—he may have done and I am sure he will correct me later if I am wrong, although it is used in the Motion—but I have never seen a proper government definition of sustainability in housebuilding. I ask him to define what the Government mean by sustainability in relation to new houses being built, if not in his wind-up speech then certainly in any letter he circulates later. I see him enthusiastically nodding his head in acquiescence to my request.

8.03 pm

Baroness Warwick of Undercliffe (Lab): My Lords, I thank the Minister for his very positive opening remarks and I hope, through some questions, to encourage him to do even more. I declare an interest as chair of the National Housing Federation, the trade body for housing associations.

This is the second time the House has debated this issue in recent months. Might that mean that it is high on the Government’s agenda? It certainly needs to be—the challenge is formidable. The National Housing Federation estimates a shortage of 4 million homes in England, with 340,000 new ones needed each year. Of those, 90,000 need to be for social rent.

Housing associations have a vital role to play in boosting supply. Research by Savills found that the Government will be unable to meet their own target of 300,000 new homes a year without investing in affordable housing. Significantly, the same report found that this investment supplements private development rather than displacing it. As the Letwin review concluded, greater diversity of tenure on large sites is crucial to building homes more quickly.

It should come as no surprise that housing associations are exploring the potential benefits of modern methods of construction, which have the potential to deliver consistently higher-quality products more quickly than
on-site construction. The Minister mentioned Swan Housing Association, which set up an off-site factory. It resulted in a 50% time saving against traditional construction. There are other potential benefits: Swan's off-site factory improved the quality of its houses while reducing waste by 90% and saving 10% in cost.

Other housing associations are also delivering the homes that people need by embracing modern methods of construction. Accord, a housing association operating through the West Midlands, set up its own off-site manufacturing arm. It delivers homes for Accord, for other housing associations and for local authorities that want to build. This business recently moved into a new factory with the capacity to produce up to 1,000 homes a year.

While there is an appetite in the sector to make off-site manufacturing a success, there are barriers preventing greater take-up and government has an important role to play in overcoming them. One barrier is the insecurity inherent in any new and developing industry. High start-up costs and small initial pipelines make off-site providers financially vulnerable. Off-site products are not often interchangeable, so it is difficult for buyers to switch between manufacturers should difficulties arise. This insecurity poses a risk to buyers but is of particular concern to housing associations, given their focus on the long-term sustainability of their properties. They want the certainty that they can access the parts needed to maintain their properties for tenants tomorrow, next year and for decades ahead. The construction sector is already taking steps to develop a common set of design features. This is not about creating rows of identical houses, but rather about creating a common set of blueprints for manufacturers. Will the Minister incentivise and support these efforts at standardisation across the sector, to increase the robustness of the market in the modern methods of construction?

A second barrier is the inconsistency of demand for off-site manufacturers, which undermines the prospect of economies of scale. Off-site manufacturing works best when there is already a drumbeat of demand rather than a series of peaks and troughs. Without a regular, reliable level of demand, off-site manufacturing just is not viable. As the Secretary of State acknowledges, housing associations are part of the solution here. Their ability to take a longer-term view of housing, outside commercial pressures, gives them an important role in providing certainty to off-site manufacturers. Housing associations from across England are coming together to aggregate demand for off-site housing. They have the foresight to see that by co-operating they can give off-site manufacturers the certainty they need to operate. In turn, they and their tenants will benefit from the advantages of off-site production. I would like to see much more of this, not least by encouraging partnership working between housing associations and local authorities. Will the Minister commit to supporting housing associations and local authorities to collaborate and aggregate their demand for homes, giving manufacturers the security of demand they need to develop?

Finally, I must briefly mention planning. Our current planning system was designed with traditional construction in mind, whereby on-site providers are contracted after planning permission is agreed. Off-site construction relies on automation, limiting its ability to respond to individual applications. This makes it particularly challenging for housing associations to use modern methods of construction, as they often buy land after planning permission has been granted. Sometimes, planners and planning committees incorrectly associate modern methods of construction with rows of identikit houses and with poor or uncertain quality.

Despite the barriers, however, there is a real appetite in the housing sector to realise the benefits of MMC. Housing associations across the country are already doing just that. But there is more to be done, and more that can be done with government support. Traditional construction will struggle to deliver the Government’s homebuilding target, but a robust MMC sector can help to deliver the homes that families across the country need. The housing shortage is too acute for us to ignore the opportunity that modern methods of construction offer to deliver more homes, of better quality, more quickly. Will the Minister therefore commit to supporting the sector in overcoming the barriers that hold back modern methods of construction and explain the actions that the Government intend to take to support it?

8.09 pm

Lord Borwick (Con): My Lords, I first declare my interests, as noted in the register, as a house developer with sites in Bicester, Scotland and Sussex. I am also a trustee of a charity for the education of deaf children and of other charities involved with disabilities.

Modern methods of construction, as considered in our excellent Science and Technology Committee report last year, should include making houses more suitable for people with disabilities. The Government have shown great progress over the last six months on the matter. Accessibility is covered in Part M in the Building Regulations; there is of course more than one level of accessibility, and I am told that developments in London tend to carry the highest level. I am not sure of the geographic distribution of disabled people, but, as disability is so strongly correlated with poverty, I doubt that they are concentrated in London. However, I am sure of the distribution of people who may become disabled in the future—it is all of us, everywhere. We had better get this sorted out before it happens.

Some small changes will make a big difference for those with disabilities, making houses truly usable. Part of the subject of this debate is to build houses in a sustainable way, whatever “sustainable” means. Perhaps other noble Lords may cover environmental concerns when discussing sustainability, but it should also simply mean that the house can be used by anyone in the long term. A house may have a lifespan of about 100 years. The house may be sold every four or five years. The chances of no users of that house—including friends and relatives of the owners—having a disability are surely very slim. Those chances are reducing as society ages.

Housebuilders quite rightly want to build for the person who is likely first to buy that house—the customer. For many sites, this is predominantly young couples, many of whom are expecting a child or will likely be so in the not too distant future. That can have
knock-on effects, of course. At a site I was developing, the landlord of the local pub was not so optimistic about the new development bringing in a flood of new customers—he told me, “Half the customers are pregnant, and that is not good for the sale of beer”.

I made an application in the early 2000s for a site in Runnymede, then and now in the constituency of my right honourable friend the Chancellor, and I had intended to make every unit accessible—both the commercial houses and the social houses. They were to be built to lifetime homes standards—indeed, I think, by the noble Lord, Lord Best, or his organisation—and I was told that this would be the first purely commercial development to that standard; hitherto, it had been used only for social housing. Connoisseurs will detect the subtle hand of the late great Sir Bert Massie in persuading me that undertaking this task voluntarily would enable him to argue that it was reasonable for everyone to do it. From my point of view, if it brought forward the development of the site and the planning permission by several years, the cost was unimportant.

I was told by professionals that it was a bad idea. Disabled people are less likely to be wealthy, so why would I make every house fit for that purpose? I was told I was going to be building a ghetto for disabled people. But my plan was much more sustainable. Buyers may not be disabled now, but they may be much less mobile in the future. In any case, we all spend time in a wheelchair, though it may be called a baby buggy when we are small—we will be lucky if it is only at the beginning of our lives that we need wheels.

Boosting the housing supply by sufficient numbers simply will not happen as long as we maintain a system of central planning. Central plans have never worked well, whether for tractor production in the Soviet Union or a plan-led system for houses. Only the market, not the Government, has the information needed. If we are to have plans, make them as local as possible—as we are doing—but do not believe they are going to work. The Soviet Union failed to run five-year plans, the answer seems to be that we must tax the only people that produce them. The biggest cost for a developer is the cost of the land and the delay in planning. Every time there is a delay, the time-based fees of professional advisers go up. That is the reason why the small builders and developers have almost disappeared. The money spent on fees is a big speculative risk.

Talking of costs, I have often wondered whether councils might view planning applications differently if they were faced with the cost of housing benefit. The lack of housing drives up rents, which makes them unaffordable to so many people whose only option is to turn to the state for support—a council delays planning permissions, and central government picks up the cost of housing benefit. What if councils had to pick up the bill for higher housing benefit because of decisions they make at planning meetings? Is it worth thinking about. Housing benefit is being wrapped into universal credit, but if that were localised, would we see councils start to grant more planning permissions?

We have a localised system designed to encourage more housebuilding—the new homes bonus paid by the Treasury to councils. But it has some problems. Why is the payment made over four annual instalments? That seems to me to cancel out the idea that this is a “bonus” payment for granting more permissions. Perhaps finding a way for local authorities to bear the cost of restrictive planning, or to reap the benefits of good planning, might be more effective.

8.17 pm

Baroness Thomas of Winchester (LD): My Lords, I shall follow the noble Lord, Lord Borwick, down the route of talking about homes for disabled people. The Minister knows exactly what I am going to say, and I believe I am right in thinking that he is sympathetic to my message, which is simple: we desperately need far more new accessible and adaptable homes built in a sustainable way now as the population ages, and disabled people live longer.

For that to be a reality, we need Part M category 2 of the Building Regulations to be mandatory all over the country, as it is in London, as soon as possible. Housing and planning authorities also ought to provide an adequate number of category 3 wheelchair-accessible properties in their areas; otherwise, working-age wheelchair users will not be able to live and work there or many older-age wheelchair users will not be able to transfer or downsize to a more suitable property. This must be considered as part of the sustainability agenda, particularly as many disabled people need a warmer home than others.
Just the other day, I was speaking to a man at a social event who was taking a break from caring for his mother in Manchester. He said that she was virtually bedridden and did not go out at all because she lived on the fourth floor of a block of flats and could not climb stairs any more. This story is repeated throughout the country. Elderly people, perhaps with chronic arthritis, are becoming less mobile as the years pass, ending up as prisoners in their own homes. Or they may have had a serious fall—perhaps a broken hip—and are too fearful to move about very much. I also recently met Sam Renke, a young wheelchair-using actress, who has only just moved into an accessible home. She has said: “Having others do almost everything for you may sound idyllic to some, but actually I felt like I was in my own version of a prison at times, having to wait for others to help me do basic … tasks”.

As for MMC, I gather that both category 2 and category 3 homes can be built this way, so I assume that this means that they are adaptable—for example, having strong enough bathroom walls to allow grab rails to be installed. But it would be quite unacceptable for a developer to refuse to install enough accessible and adaptable homes because they do not fit with MMC. Yes, we need a lot more homes but surely not at the cost of accessibility. Will the Minister ensure that accessibility requirements are included as part of any future rollout of MMC?

However, it is not just developers who want to use every inch of space for homes which are not accessible or easily adaptable. Not enough local authorities have targets in place for accessible homes. Last year, the housing association Habinteg analysed the accessible housing policies detailed in 263 of the 365 local plans across England. It found that, although 65% of the local planning authorities reviewed made reference to the lifetime homes standard or category 2, only 32% made a firm commitment to deliver a specific proportion of new homes to that standard, with just 18% committed to the category 3 standard.

We know that a review of the Building Regulations is being carried out. Will the Minister tell us about the timescale? We need category 2 of Part M made mandatory as soon as possible. Do we really need a long consultation about it? Of course, some property developers—not the noble Lord, Lord Borwick—will say that there is not much need for accessible and adaptable homes, but we know that there is a huge unmet need, so I urge the Government not to delay for another minute.

8.22 pm

Lord Best (CB): My Lords, I thank the Minister for his helpful introduction to this debate. I will forfeit my opportunity to offer him 10 ways for government to ensure 300,000 affordable, high-quality, well-designed homes a year. However, I recommend that he and all interested parties look out for the forthcoming reports from the Centre for Social Justice’s housing commission and from the Affordable Housing Commission organised by the Smith Institute and the Nationwide Foundation—I declare my interests as chair of these two commissions. I also declare interests as a vice-president of the LGA and the TCPA.

I want to use my few minutes to draw attention to the quite dramatically changed policy context in which we are now debating the construction of the new homes the nation needs. Over recent years there have been some quite fundamental, but largely unremarked, shifts in government housing policy, and I want to highlight and commend these important U-turns.

I have now counted over 20 significant reversals of housing policy over just the last three years or so. In essence, I detect the abandonment of a range of earlier policies which would diminish the social housing sector—the council and housing association sector—and would rely on a handful of volume housebuilders. Now, instead of that agenda—so familiar to those of us in your Lordships’ House who argued over the fateful Housing and Planning Act 2016—there are positive new measures to encourage, grow and expand social housing, while curbing the endlessly disappointing performance of the big housebuilders. In passing, I note equally the measures to redress the balance of power in the private rented sector from landlords to tenants, not least with last week’s very welcome announcement from the Secretary of State of greater security of tenure for renters.

Of particular relevance for today’s debate, the items from my long list of 20-plus policy reversals are these: first, the freedom for councils to borrow to build, in place of a tight cap that has prevented most local authorities building new homes; secondly, new grant funding for social rent—low-cost rentals—ending a virtual ban and the substitution of so-called affordable rents, which are not affordable to those on lower incomes; thirdly, dropping the flagship scheme to require councils to accept “starter homes” for sale in place of the previous planning obligations on housebuilders to ensure provision of low-cost rental homes; fourthly, pledging to close the “viability loophole” which has allowed housebuilders to renege on Section 106 planning obligations to provide affordable homes; fifthly, revival of the Government’s multibillion-pound loan guarantee scheme for housing association borrowing, which had been scrapped earlier; sixthly, dropping a controversial plan to put rents for specialist, supported housing on to a new basis that had stalled many developments for older people and others; seventhly, a full reversal of the imposition of a compulsory annual 1% real reduction in social housing rents—which has reduced the capacity of social landlords to develop new homes—and instead the substitution from next year of CPI-linked rent increases; eighthly, batting the idea of extending the right to buy to housing association tenants into the long grass and, more significantly, dropping the dreadful plan to make councils sell their best properties on the open market, when they fell vacant, to pay for the new right to buy discounts for those housing association tenants; ninthly, scrapping policies that make life tougher for social housing tenants, forcing social landlords to end long-term security of tenure and to raise rents for those who achieve improved earnings—“pay to stay”—and, in contrast, following the Grenfell Tower tragedy, promising measures to strengthen the regulation of social housing landlords and enhance the status of social housing tenants; and, finally, rather than putting increased faith in the major housebuilders, instead coming forward with at least four new constraints on them: deciding to create a new homes ombudsman to handle the numerous complaints from house buyers;
outlawing appalling practices by housebuilders in selling leases with rip-off ground rents; requiring higher standards from housebuilders, not least to improve energy efficiency; and starting the phasing out of the multibillion-pound Help to Buy subsidies that have been so lucrative for the big housebuilders.

I see each of these turnarounds as a triumph of good sense and a credit to the relevant Secretaries of State and their Ministers. All of us can now build on the near-universal recognition that housing shortages and deficiencies will not be cured by volume housebuilders and “the market”. More, not less, government intervention —through both investment and regulation—is sensible, positive and necessary. I am not saying that the reorientation I have described means that everything is now sorted—sadly not. But what has changed is that so much housing policy is now facing in the right direction; what is needed now is for it to move forward further and faster in the direction now set. Government now has the opportunity to embrace further shifts in the same direction and accelerate progress—for example, with greater funding for social rent, with the adoption of Oliver Letwin’s recommendations for capturing land value, with more progress on garden towns, with changes to standards of accessibility and energy efficiency through Building Regulations and, yes, by promoting and incentivising modern methods of construction. If government sustains its significant shift in emphasis to more proactive governmental input, there will be new hope for the tens of thousands who need a better housing solution.

8.29 pm

Lord Palmer of Childs Hill (LD): My Lords, first, I thank the Minister for initiating the debate and setting out the Government’s plans in quite great detail. We need to be clear about the overriding philosophy of modern methods of construction. Is it our aim to build more homes quickly, more cheaply or to a high or higher standard? Will it use mass production and standardisation? Otherwise, we will end up with systems rather than bricks and mortar on site? Will it use research and development tax credits to encourage innovation and trial of new products and technologies? Will modern forms of construction also provide help to the delivery of utilities. It was mind-boggling to see back to back with the neighbouring units, thus simplifying the delivery of utilities. It was mind-boggling to see how simply having triangles of bathrooms fitting together could solve so many builders’ problems. Will the new methods produce more homes more quickly and to a high quality?

How can the Government force the larger developers not to sit on land banks and to release units only at a steady flow so as not to depress prices and profits? This is the problem at the heart of our housing crisis, which I last highlighted in this Chamber two and a half years ago. Have attitudes changed since then? A report in the past few days showed that housebuilders still sit on enough land to build well over 800,000 homes. The number of plots in the nine largest builders’ land banks has risen since our debate in November 2016, in which I spoke, to about 838,000. Those are plots on which they could build but have not built—and this is despite government reviews and policies.

In 2016 I pointed out in this Chamber that on a large site with planning permission, builders will rarely sell more than 150 units per annum. This enables them to sell at a price to delight their shareholders by not depressing the price of the properties they are selling. Is there truth in the assertion that the fault lies with the local authorities—as I have heard said this evening? In the local authority planning system it can take years to get planning permission, given the time it takes to hear applications and appeals. Is that the problem? If that is the case, what are the Government doing to rectify it? There is a problem with overall planning and with specific planning permissions? Or does the slowness in obtaining planning consent suit the large developers, which are happy to sit on land going up in value and are keeping high the value of developed homes? If this is the case, what are the Government doing to break the logjam?

Will modern forms of construction also provide more homes for rent and purchase, and will the Minister comment on some suggestions for government action, such as support for the UK’s modern methods of construction supply chain and funding for innovation, using research and development tax credits to encourage innovation and trial of new products and technologies? The noble Baroness, Lady Warwick, who is not in her place, mentioned standardisation. Various companies are building under the new methods of factory build, but are they consistent with each other? Is there standardisation? Otherwise, we will end up with systems that do not interlock, as with so many things in this country.

Will the new system develop new skills of factory building rather than bricks and mortar on site? Will it improve design quality? We are not looking for mass
building at cheaper cost—“build ‘em high”, in the old Tesco format. We are talking about improving design quality. Will the Minister tell us whether the Government will encourage post-occupancy evaluation, to let the occupants tell us whether it is working? Finally—looking at the time—could the Government support a review to subdivide large sites to create more variety in the same area?

8.37 pm

Lord Haselhurst (Con): My Lords, let me say at the start that I do not claim to be an expert in the intricacies of housing supply. I would like to express my gratitude to the many people and organisations that supplied information to me ahead of this debate—even if justice cannot be done to it in a six-minute speech limit. However, at least I feel better informed.

I cannot really judge whether the reason for housing targets not being met is land supply, the planning system, outdated construction methods, the alleged perverse effects of stamp duty rates and Help to Buy schemes, or any other factor. All I know, and am deeply concerned about, is that there are many parts of the country where a housing shortage persists, and for 40 years I represented one of them in the other place.

I cut my political teeth on the notion of a property-owning democracy. Through experience, I have learned the need for a well-stocked rental sector. It has been a bitter disappointment to me that in the district of Uttlesford—the predominant housing authority in the constituency of Saffron Walden that I represented—there has hadly ever been a time when there were fewer than 1,000 names on the housing waiting list. The median house price in Uttlesford is £410,000; put another way, that is 12 times average earnings. More and more young people are being denied, despite the district council generally doing the right things: it has built council houses and entered partnerships with housing associations. I would like to instance the Hasteo Housing Association in particular, which has introduced many small schemes for shared ownership or subsidised rent in many of the villages of this predominantly rural constituency. Last year, 700 houses were built, of which around 250 were classified as affordable. That puts Uttlesford in line with the government target of 14,000 more dwellings by 2033.

Supply and demand, however, remain completely out of balance. The demand is fed by Uttlesford’s reputation as being one of the most desirable places in the country in which to live: its proximity to London makes it a tempting destination for people who want to move from an urban to a rural environment, and it has a robustly healthy local economy, with jobs aplenty. The need for more housing is obvious—except perhaps to people who already have the advantage of living in the district. Controversy has stalked every attempt to satisfy the increasing demands of successive Governments. However, of Uttlesford’s 250 square mile extent, only 7% has been taken by housing to date. Some might have it that corn is giving way to concrete—but we are a long way from that.

It is understandable, I accept, that there is a desire on the part of homeowners and those in long-term rental accommodation to protect the status quo. But the hostility to new housing schemes has led to the formation of populist resistance groups which are clear as to what they are against but absolutely vague as to what they favour. It is deeply unfortunate that the supply of homes has become subject to a bitter political battle.

The resistance that has been stoked up stems from the failure of infrastructure to march hand in hand with housing construction. Fed with expectations, be they realistic or otherwise, that new communities will be blessed with roads, schools, medical centres, transport services, convenience stores, pubs and community centres, local hopes are regularly dashed. People who are promised better and receive worse harden their hearts towards government, local authorities and developers. Here, I find myself very interested in and sympathetic to the remarks made a few moments ago by my noble friend Lord Borwick.

I will cite some examples from Uttlesford, Flitch Green is a development on an old sugar beet factory site. The developers wanted more houses and kept putting in applications saying that these could be put on land that had been designated for playing fields. Gradually, the amenities were squeezed out to get more houses, and there was a continuous battle over that development. In Tudor Park, a new development in the town of Saffron Walden, the houses were not built to the best of standards and there were continuing complaints from the owners who moved in about the general amenities around, the bad finishing of pavements and—the final insult—that the green area meant for play and other purposes was left looking like a builders’ tip. In 1991, there was also the arrival of the third London airport at Stansted. Had this been accompanied by improvements in infrastructure, people might not have minded so much. But the railway service deteriorates; it does not get better.

I suggest that much has to be done if people are to become enthusiastic and persuaded that development can be carried out sensitively and with palpable benefits, perhaps even for members of their own family. I hope that, in his summing up tonight, my noble friend will ensure that the garden community concept will achieve that end.

8.43 pm

The Earl of Lytton (CB): My Lords, I declare my interest as a property professional and vice-president of the LGA and the National Association of Local Councils. I certainly welcome this debate and the introduction given by the Minister. After all, decent housing, along with education, health and access to justice, is something of a post-war birthright that we should respect.

Report after report, certainly since the beginning of 2016, has identified shortcomings in the construction and housebuilding sectors. I do not want to dwell too much on those, but traditional construction is certainly likely to be with us for some time, not least because we already have over 20 million houses that are built largely on traditional lines.

The sector is dominated by a few large players, and of course that has prompted suggestions of monopolistic characteristics. However, exploitative behaviour has been evident right across the sector, not just in directors’ bonuses bolstered by Help to Buy. Housing delivery remains complex, adversarial, long-winded, costly...
and uncertain. Unsurprisingly, that gives rise to sub-optimal outcomes, dissatisfied communities, poorly designed environments and disgracefully low-quality homes in some areas, and a range of complaints about defects in many more that are supposed to be good quality. Slow build rates, referred to by the noble Lord, Lord Palmer, and large allocation sites often dictate local supply and local pricing for years.

But there are well-designed housing developments and virtually fault-free homes in settings that give general satisfaction. It does not require new towns with long bedding-in timeframes or amorphous strategic sites, but rather, smaller, discrete adjuncts to settlements where people want to live and work and where there is some sense of community that best suits work-life balance, and environmental and green travel options. Lifetime homes, acceptable environments, low-maintenance design and robust technology should sit with adequate space standards in settings that are attractive, and I hope provided by a raft of small and medium-sized housebuilders who do not just produce standardised layouts.

There is nothing wrong with modular construction, as anyone who has inspected a Colt timber-framed house of the 1930s can attest. But modern ones are not as tolerant of DIY alterations or abuse, nor are they as easy to alter. So if that matters to people and what they expect of their homes, then rethink the design. There are problems with overprescriptive design when it comes to dealing with very high technological outcomes. Ours is a high-humidity island, and it may take many years for a problem with, for example, vapour barriers or the way components interact with each other to show up. So real-life testing of designs must, in my opinion, be absolutely exhaustive if we are to get lots of good life cycles.

More widely, we could certainly do more to decarbonise and harness renewable energy. On decarbonisation, using timber instead of cement and concrete is what I would be thinking of. Instead of having to change not just the bulb but the entire fitting and the housing—to use the old light fitting analogy—we need buildings, modern or otherwise, that last for decades and are extensively repairable and serviceable. Designing in potential for reuse and recycling, as well as durability, and reducing obsolescence, means a degree of harmonisation. Those factors, along with resilience to known risks caused by weathering and other deterioration, would serve to enhance homeowner and lender confidence. Meanwhile, there is absolutely no justification for sub-standard housing converted from unsuitable commercial buildings.

We have to address industry shortcomings. They were addressed in the Farmer report so I will not repeat them here, but there is a fragmentation of skills, an ageing workforce and a loss of experienced manpower—never mind things such as gender imbalance. I hope that modern apprenticeships will recognise that not every plumber, carpenter or electrician needs to have a higher education or, for that matter, is suited to academic endeavour.

Good design and durable outcomes also need competent professional skills, and we will need to refocus what we do to deal not only with traditional construction but with new forms. At present, we are cutting corners. The Building Research Establishment’s finding of poor thermal efficiency in many modern homes is something I still encounter in new housing today. Local government and housing associations should build more social housing. It will take time to create volume, though perhaps modular construction can help in that respect.

I agree with the Local Government Association that retaining right-to-buy receipts is essential. I despaired of the unfulfilled commitment in the Thatcher years to use receipts to build more social housing—only for a Labour Government in 2002 to pocket the accumulated fund for other purposes.

Ethical behaviour and corporate social responsibility must form part of what we do, and that means starting at the top. Nowhere is abusive behaviour better illustrated than in some modern ground rent practices, referred to earlier, and in poor construction quality. One change might be to attach some sort of more direct liability to house purchasers for the products that are produced or, for that matter, to social landlords who acquire blocks, so that it cannot be a question of hiding behind a construction warranty provided by somebody else. That might take things somewhat further than the new home ombudsman idea advocated so ably by my noble friend Lord Best, but it is worth thinking about.
a couple of things that I have personal experience of that I worry about. The Government’s commitment to a presumption in favour of off-site modular demand sets a great example, and it is good to see the Government put their money where their mouth is. It is too early to measure success, but I have been involved in an effort to try to get the Government to lease land to renewable energy projects in the same spirit of leadership, and it was not a hugely successful experiment. The projects really struggled to get decision-makers in government organisations with completely different priorities to adopt a commitment to renewable energy investment, and I worry that we might have a similar problem in this area. I applaud the £13 million for research and development, but I worry whether they will come up with the triangular bathrooms mentioned by the noble Lord, Lord Palmer. I thought they were fantastic.

However my main point is about the home owner, and I wonder whether instead of all this pushing there could be some way of pulling change in the way the industry approaches construction. The Home Owners Alliance is a representative body of people who own homes. Its survey, which is very powerful, talks in detail about the dissatisfaction of purchasers of new homes with the quality of the products they have bought.

Sixty-nine per cent of people have serious concerns about the quality. My noble friends Lord Haselhurst and Lord Patten told pretty typical stories of concerns about snagging. The recommendation of the Home Owners Alliance is a “snagging retention” to give time for snags and defects to be righted and, most importantly, to incentivise homebuilders to focus on getting the quality right in the first place. That is the important connection that I want to make. If modular manufacture really delivers the quality that it promises, maybe we can build into the home-purchasing process a really powerful incentive that puts the consumer at the centre of the decision-making and encourages manufacturers to build right the first time, rather than having to come back to deal with snags.

The Home Owners Alliance recommends a retention of 2.5% of the value of the home. Personally I would go further. From my business career, I know that it is not unusual to have retentions of 5% or 10%. Of course, the homebuilders will not like that idea. They might find that it affects their cash flow and administratively they might struggle with it, although retentions are quite common in other industries. Surprisingly, Persimmon, the housebuilder, has already embraced the idea and has offered to put in place a 1.5% retention on new-build homes, although we are waiting to find out a few more details about its suggested plan.

Therefore, this is my recommendation. Instead of all the efforts listed in this debate to try to push the industry in a certain direction with supply-side regulations, can the Minister please consider demand-side reforms that will cost the Government nothing and make the best use of market-based pressures to enact reform? I suggest that the Government introduce a mandatory, consumer-friendly snagging retention regulation. This would act as a great big industry-sized nudge for homebuilders to embrace modern and more reliable methods of production that deliver the sorts of homes that do not need endless tweaks and costly, irritating snagging to get right. The beneficiary will be the modular building industry, which, as I think everyone here agrees, is ideally placed to meet these market conditions. Lastly, I urge the Minister to launch an immediate consultation into such a measure, to take a robust and immediate approach to complaints from the building industry and to come down on the side of the poor home-owning consumer in this important matter.

8.57 pm

Baroness Walmsley (LD): My Lords, I shall focus on the word “sustainable” in the wording of the Motion, because I want to talk about two linked crises: the crisis of the housing shortage and the crisis of climate change.

The BEIS Select Committee looked into this on 12 March this year, taking evidence from representatives from Barratt, Persimmon and Mulberry Homes. The builders were asked what percentage of the houses they are building this year comply with the latest energy efficiency regulations. Barratt’s answer was 53%. The representative was asked, “Why only 53%?” He explained that the point at which you buy the land and get planning permission fixes the building regulations to which you must abide in perpetuity, so there are people still building to 2006 regulations.

It strikes me that that is a particular problem, given the phenomenon called land banking. It seems that if you buy some land, get planning permission and do some innocuous preparations, you can fix the regulations with which you have to comply, so you can bank your energy regulations as well as your land. That sounds like a good deal for the builders but a poor one for home buyers and the planet in an era when the standards of energy-efficiency regulations are rising. Surely this should change.

Public perception is that new properties will be substantially more energy efficient than older properties, in which case, the Select Committee asked, why did the Committee on Climate Change feel the need to point out that if builders actually built to the specification to which they should be building, consumers could save up to £260 per year on their energy bills? Are house buyers being misled into believing that their properties are more efficient than they are? The witnesses accepted that there is a performance gap between the energy performance certificate rating and the actual performance in use; this is something that the committee had dug into earlier. The witnesses made the point that homes that were designed to a B standard often turned out to be a C or D standard as built. It was put to the builders that this was mis-selling, similar to where someone buys a three-bedroomed house and it turns out to have only two bedrooms: they are being swindled.

But, apparently, few buyers go back to the builder and complain that their energy bills are higher than expected. It seems that it is very difficult to make the comparison because of the complexity of the energy market. Do the Government plan to make it any easier for house buyers to check that they are getting what they paid for when they buy a new house?

Tools do exist for testing the thermal performance of the house at the point of sale. Indeed, I saw it done in my own house; I can say from my experience that I built a passive house and my heating bills are exactly within the range quoted by the architect and small builder.
[Baroness Walmsley]
What is more, they checked this out again a year later to make sure the house was still performing—it is. The committee’s witnesses said they would be happy to be measured on this basis, so why do the regulations not insist that, instead of being based on a theoretical design, the EPC is issued on actual performance?

The Committee on Climate Change has stated that we need to decarbonise our homes by 2050. The builders were asked what percentage of the houses they built last year would need to be retrofitted to meet this ambition. The answer from Barratt and Persimmon was, “all of them”, since none was built to zero-carbon standards. But the small builder Melius Homes builds all its houses to this standard and still makes a profit.

Given that it could cost five times as much to retrofit a house to a zero-carbon standard than to build to that standard in the first place, we have one chance to get zero-carbon homes cheaply. The builders claimed that they are capable of building zero-carbon homes if that is what the Government want. However, the zero-carbon homes standard was scrapped. Can the Minister say why the Government are not reinstating it? The industry says it can do it, the planet needs it, so let us get on with it.

Cost is often raised as an issue. The committee asked about the extra cost of building to passive house standard and the reply was £10,000 to £12,000 per house. However, the climate change committee estimated £4,800 per home. It was agreed by the witnesses that this was probably ambitious but that, if it was at scale, perhaps it could be done. The committee then established that, at £10,000 per home extra, the total cost of building all Persimmon’s homes to zero-carbon standards would be £65 million per year, which happens to be only 10% of the amount paid to its senior leadership team last year. In other words, Persimmon could have built all the homes it built last year to zero-carbon standards for about 10% of what it paid the bosses. What will the Government do to ensure that scale builders put a little extra insulation into houses and a little less into the remuneration packages of their senior executives?

Finally, I would like to ask for some clarification about the powers of local authorities to grant planning permission only if the houses are built to zero-carbon standards. The Government have said that, “local authorities are not restricted in their ability to require energy efficiency standards above Building Regulations”. But some councillors are still confused and have been consulting the Passivhaus Trust on the matter. They point out that the planning system involves a number of considerations, including the three legs of sustainability: economic, environmental and social. They want to know whether they need to declare a local climate emergency in order to be allowed to give greater weight to the environmental leg in determining planning applications. They are of course very averse to judicial review. Can the Minister clarify this please?

As the excellent report produced in 2016 by the ad hoc Select Committee of your Lordships’ House on the Equality Act 2010 and disabled people highlighted, demographics are heading in one direction. As my noble friend Lord Borwick and the noble Baroness, Lady Thomas of Winchester, mentioned, society is ageing and the incidence of disability is increasing. The question is, therefore, whether we have the accessible housing supply to meet the increased demand.

Sadly, the answer, as we have already heard, is that we do not. In fact, there is a crisis in accessible housing. Abode Impact, a respected organisation working in this field, has conducted the largest-ever survey of wheelchair users. It found, four in five are currently living in a home that fails to fully meet their needs as a wheelchair user; 91% have experienced barriers to accessing the private rented sector; and 62% said this was due to a lack of accessible properties. Incredibly, wheelchair users report having to be carried downstairs to leave their property and being turned away by estate agents after arriving in a wheelchair.

So the next question is surely whether we are at least planning to make the necessary provision. Again, the answer, if we look at the National Planning Policy Framework—which was revised as recently as February of this year—is no, despite its being supposedly centred on “sustainable development”. Indeed, paragraph 61 reads:

“Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children … people with disabilities”—

the list goes on. However, that is it. The framework does not go into any further detail or communicate any sense of urgency.

Yet exactly two years ago, the Women and Equalities Select Committee in the other place recommended that, “the Government amend the National Planning Policy Framework and the National Planning Practice Guidance to incorporate a dedicated section on access for disabled people and inclusive design for local planning authorities and decision-takers”. This does not appear to have been done, and I would be grateful if the Minister could explain why.

Noble Lords may know that the Select Committee in the other place also recommended that, once the new guidance under the Neighbourhood Planning Bill—passed almost two years ago—is adopted, the Ministry of Housing, Communities and Local Government undertake an audit of local plans to identify those that do, or do not, meet that guidance. Where this audit reveals gaps in accessible housing policies, the Government must take action to press local authorities to amend their local plans in line with the new guidance as a matter of urgency. I ask the Minister: what is the status of that guidance? As of 8 April, when he provided a Written Answer to my noble friend Lady Cumberlege, Section 8(2) of the Neighbourhood Planning Act 2017 had still not even been commenced, despite the fact that the Act was passed, as I say, almost two years ago.
Surely, as the noble Baroness, Lady Thomas of Winchester, also suggested, there is an obvious solution. Indeed, it is already being used in London, where all new homes are built to Part M category 2 standards for “accessible and adaptable dwellings”—in other words, sustainable housing. Moreover, 10% of new housing in London is category 3—that is, wheelchair accessible.

As my noble friend Lord Borwick so powerfully and clearly demonstrated, there is a market to be tapped here. Abode Impact is launching the first accessible housing fund for London, targeting financial returns and social impact. The fund will purchase one-bedroom and two-bedroom new-build flats in outer London, to be adapted for wheelchair users and located close to accessible public transport links.

In conclusion, if the Government are serious about marking next year’s 25th anniversary of the Disability Discrimination Act, how can they justify any further delay in publishing this essential guidance under the Neighbourhood Planning Act? Surely it should be published before the anniversary. I look forward to hearing what my noble friend has to say.

9.11 pm

Baroness Watkins of Tavistock (CB): I thank the Minister for bringing this debate relating to modern methods of construction, with a particular focus on housing. I declare my interests as outlined in the register, in particular my role as senior independent director at Southern Housing.

I am indebted to several briefings provided to me in preparation for my contribution. A former colleague, Stephen Trusler from Laing O’Rourke, provided me with information that commences with the following statement:

“Platform-Design for Manufacture and Assembly offers the opportunity to ‘TURBO-CHARGE’ capacity and widen productivity in the UK and will enable the UK’s construction sector to deliver modern solutions to the challenges the country now faces”.

The paper argues that there is an opportunity to improve sustainability through accurate, cost-efficient and time-efficient build; deliver high-quality, energy-efficient products; minimise risks of additional costs due to accuracy and quality of build; and improve productivity through high-tech design, delivering products less reliant on traditional on-site construction works.

In current parlance, I ask noble Lords: what is not to like if all these benefits can be achieved?

Gwent’s new £350 million Grange University Hospital is being delivered by design for manufacture and assembly. The hospital team defined a set of 4,000 construction products, which were digitally engineered and tested off-site. If this 560-bed hospital can be delivered through modern practices of assembly using lean automation and quality-assurance systems, estimated to take only four years to complete, imagine what could be achieved in the residential housing sector.

Modern methods of construction should be a welcome approach to speeding up our housing supply, including modular units for homeless people living rough or in bed and breakfasts. To really embrace these modern methods, it will be necessary for the housebuilding industry to invest significantly in the changes needed to deliver innovation in construction techniques.

It is accepted that our housing market has been broken because we have not produced enough homes to keep up not only with population growth but with our changing demographics. Recent research showed that there are at least 1.8 million households that require access features or adaptations to their homes to live as independently as possible. It should surely be feasible to design homes through the new modern methods of construction that can be readily adapted as and when necessary.

I was going to talk about Lifetime Homes Standard category 2, but as this has been covered by other noble Lords I will say merely that if we accept the costs as outlined in the Government’s own impact assessment, building a category 2 home would cost just over £521 more in bill costs—with the net additional cost of space possibly making this rise to £1,400. An investment in such a unit, using a simple automated design process, would not only be economic but would dramatically enhance people’s lives, enabling faster discharge from healthcare facilities and early rehabilitation in people’s own homes, as well as often keeping them out of care facilities.

I have barely touched on many of the issues provided in the excellent Library briefing, which clearly indicates that the residential construction industry could significantly boost housing supply using modern methods of construction. Yet industry requires assurances from the Government to invest in new facilities to produce the product and manufacturing tools that will allow accurate, repeatable, machine-readable product information to be used across the sector.

It will be necessary to develop industry-wide standards for the products produced by these new methods, and to include those standards associated with health and safety—particularly fire and flood regulations. Equally vital is the action needed to develop structured career pathways into and within the sector, including high-quality industry placements for students in school, further education and higher education. The current sector workforce will also need to be reskilled where appropriate, to support their ongoing employment and to ensure their retention in the construction industry.

In summary, I ask the Minister: will the Government support industry in its investment programmes, to ensure that the target for increasing the number of new homes can be achieved more quickly using modern processes than through traditional construction methods? I have spoken to many people in the industry who reaffirm evidence given to the Science and Technology Select Committee that the only way to meet the new government targets for delivering 300,000 additional homes per annum by the mid-2020s will be by embracing these new technologies.

Will the Government also commit to exploring options for the specifications and accreditation of products built off-site, in part to ensure that mortgages and insurance policies are readily available for purchasers and renters of these new housing products?

9.17 pm

The Earl of Caithness (Con): My Lords, I am grateful to my noble friend Lord Bourne for introducing the debate, and for the positive way in which he did so. I declare my interests, as in the register; in particular,
I have been a land agent, an estate agent and a Minister for Housing. The noble Lord, Lord Best, told us of changes that had happened in the last three or four years. If one looks back to when I and my noble friend Lord Young—also on the Front Bench—were Ministers for Housing, times have changed quite considerably.

However, I have just finished sitting on your Lordships’ Rural Economy Committee. Our report is published on Saturday morning. One chapter is dedicated to housing in rural areas. I hope that the report will be in my noble friend’s red box for the weekend, as indeed I hope it will be in many Ministers’ boxes, because there is no doubt that rural areas have been treated in a grossly unfair way by successive Governments, and that needs to be put right—so my noble friend still has a lot of work to do.

Some of the evidence we received was startling. Chris Carr of the Federation of Master Builders told us that the top five constraints on the availability to deliver new homes were the lack of available and viable land, the planning system, a lack of developer finance, a shortage of skilled workers and the cost of 106 contributions. My noble friend Lord Borwick mentioned the 106 contributions as a cost, but I was surprised that my noble friend the Minister did not mention the lack of skilled workers when he opened the debate. I hope he will tackle that point when he comes to wind up.

Our evidence also showed that there is a much greater challenge related to having a supply of houses of the right types and tenures—including owner-occupied, private rented and affordable housing—in the right locations to support a population of all ages. We received evidence that the cost of rental can be up to 31% of a family’s income in rural areas—far higher than in urban areas. Although the population in rural areas is increasing, we were told that the working-age population in those areas is projected to decline by 75,000 between 2014 and 2038. The key to solving that problem is by ensuring viable, mixed communities in rural areas and building more affordable housing.

All too often now, young people are forced to leave the countryside and go into urban areas because of the cost of housing. This means that there will be more older people in rural areas. I strongly urge the Government to encourage all homes to be built to the Lifetime Homes Standard of accessibility, which serves people of all ages. It is no good having a subsection on that; it needs to be a firm requirement that that should be the construction. That was a recommendation of the Housing and Care for Older People All-Party Parliamentary Group report, in which the noble Lord, Lord Best, was very involved.

However, it is not just about the construction of houses; we often forget the people who live in the houses. I can say from my own experience that after my accident two or three years ago, I had to spend time in a rehab unit because I could not go home. My home was not fit for me to live in and I was blocking a bed. I think I am not the only person in this House who can say, “I am still blocking a bed”. My wife and I live in a house that is too big for us and we cannot find the right house to downsize into. A further problem is that of stamp duty. I suggest to my noble friend the Minister that he raises the matter of stamp duty with the Chancellor, because it would be one way to free up the market. I also suggest that any pensioner who moves into a new property in which they are going to live is excluded from stamp duty.

Planning is a hugely important issue and causes developers a lot of problems. It was originally designed to balance the many competing interests associated with land, but our planning system is broken. The Raynsford review has just been published. When will the Government reply to that? One of the recommendations of the review is to have a strong emphasis on sustainable development, with the important caveat that it will also focus on the health, safety and well-being of individuals and communities. I join others in asking my noble friend what he means by sustainable housing.

I want to ask my noble friend about the National Infrastructure Commission. Whether its projects are good or bad, they are not related to the current planning system, and this will pose huge problems. How is that going to tie in with local plans and neighbourhood plans, if there is a body with a different system imposing different rules from those of the Government?

I turn for the last time to sustainability. As my noble friend Lord Patten said, the sustainability of housing does not mean the sustainability of land. According to figures for the last four financial years, between 2013 and 2017 we lost 38,706 hectares of agricultural land. In addition, we lost 2,591 hectares of gardens—equivalent to 10 square miles. That is the size of Exeter and, for my noble friend’s benefit, it is about eight times the size of Aberystwyth. My noble friend promised me that he and the Government would challenge the Mayor of London on his proposal to take more garden land for housing. Can he tell me what he has done?

9.25 pm

Lord Stunell (LD): My Lords, it is a pleasure to contribute to this timely debate. I welcome the words of the Minister in introducing it and in giving us a good overview of what the Government intend to do. There have been some high-powered contributions to the debate and perhaps two key themes have come out of it. One is how we get the quantity of homes that we need and the other is how we get the quality. My noble friend Lady Thornhill made the pertinent point that if we want the quantity, we will have to invest more in social housing, which will deliver other benefits—social sustainability as well as the numbers. Some powerful points were made by a number of other noble Members of this Chamber, but I am sure that we were all impressed by the contributions made particularly by the noble Baroness, Lady Thomas, and the noble Lord, Lord Shinkwin, on accessibility, which is one more aspect of how we make homes sustainable.

I want to pick up a point introduced by my noble friend Lady Walmsley, about housing sustainability and climate change. It is a good moment to do so, with the Extinction Rebellion demonstrations this week and Greta Thunberg in the building challenging Members of Parliament. I hope that in his final words the Minister might rise above the departmental brief to
say exactly how he sees MMC and the construction industry responding to the challenges set by Extinction Rebellion and the Government’s own target of an 80% reduction in carbon output by 2050, which they have now admitted is hardly within sight.

The reality is that 30% of the carbon emissions of this country come from construction and the built environment. Our homes produce twice as much carbon dioxide as our cars, yet we have the paradox whereby if you want to buy a zero-emission car, the Government will give you a £3,000 subsidy whereas if you want a zero-carbon house they will charge you 17.5% tax on the extra cost. When looking at how we tackle quality, perhaps the Minister could respond on that. If we halved domestic CO₂ output, we could reduce the programme of power generation by the equivalent of three nuclear power stations—which would be very convenient given that it seems that they are reducing anyway.

What the Government have done so far is scrap the Green Deal and abandon the shift to zero-carbon homes. They have even left energy performance certificates to go completely unmonitored and rot on the vine. A response to a recent Parliamentary Question that I asked indicated that we do not even know what the energy performance of government buildings is; nor is there any system of recording or monitoring it. So there is plenty to be done.

The Minister will have read about Greta Thunberg’s accusation that British politicians have lied about climate change. I know that the Minister would never do that, and I hope that when he winds up the debate he will set out a bold vision of how we will use the construction boom, delivered through the commitment to build 500,000 homes a year, to move towards solving the problems of climate change.

Other noble Lords have pointed out that MMC is not an end but a means: it is a means to higher productivity, which is very much needed; it is a means of getting greater workforce diversity—not just women in the factories making the houses, but diversity of design and performance; it is a means of getting faster delivery of homes; and it is a means of getting more consistent quality of homes. Contributors to this debate have also pointed out that MMC has some problems. An important one is its reputation. The noble Earl, Lord Lytton, in particular, mentioned that, as did others. The Minister mentioned in his opening remarks discussions with the mortgage industry, the insurance industry and the financial sector about how they can rally round to give proper support; I hope he will be able to expand on that. I certainly look forward to seeing how it will happen.

However, the overwhelming problem for MMC is the inconsistency of financial support. The fact that there is no consistent timeline and programme for production means that the high first costs of MMC are a particularly high risk for many investors to take. I welcome what the Government have done with the construction industry strategy in setting aside money and seeing investment, but the noble Lord, Lord Patten, made the point that while he is supporting an enterprise that is building 2,000 homes in a factory, not one is yet on the ground. That is not a criticism—it takes time to get an off-site manufacturing system to a level where it can put houses on site consistently, and the history of policy in this country is that by the time you are ready to put the houses on the ground, the policy has changed at national level and very often you are left stranded.

So the Minister has made a bold and interesting start. He has talked some good talk but he has left unanswered some of the really big questions asked by other contributors to this debate and, I hope, by me. What is he going to do to give the construction industry and the housebuilding sector a long-term target, with a trajectory and timelines to deliver on climate change? What is going to be put in place to respond to the Extinction Rebellion protesters?

9.32 pm

Lord Beecham (Lab): My Lords, I refer to my interests as a local councillor seeking re-election next week and as an honorary vice-president of the Local Government Association. I join other noble Lords in congratulating the Minister and thanking him for giving us the opportunity to discuss this important area of policy, and for his clear interest in it and support for action.

Today’s debate, with its curiously worded title, reflects a long overdue intention on the part of the Government to address a deepening crisis over housing policy. Belatedly, the Government are recognising the need for more new homes, although their target of 300,000 new homes a year embodies a minimal role for local authorities, allowing only the most hard pressed to bid for £1 billion by 2021-22. As I have remarked on a number of occasions, in Newcastle, when I was first elected to the city council, we built 3,000 houses in 1967. The Government’s welcome announcement will provide an estimated 10,000 houses: that is not great when you look at the national need.

Why should councils’ contribution to meeting housing needs be restricted to this extent? Why, contrary to the view of the Treasury Select Committee, do the Government intend to maintain their cap on all other areas? The Government and their coalition predecessor have restricted the use of the proceeds of sales under right to buy such that in the last six years, while £3.5 billion in discounts have been shelled out, councils have been able to retain only one-third of the already reduced proceeds and find it increasingly difficult to provide much-needed social housing. So in 2017-18, of 160,000 new homes built in that year, only 1,730 were built by councils and 27,140 by housing associations. Forty per cent of former council properties are now owned not by the tenants who acquired them but by private landlords who rent them out at higher rates than council rents. What is the Government’s definition of affordability for both rented and newly built, owner-occupied properties? What view do they take of the kind of profits generated by large housebuilders such as Persimmon and the massive payment of £110 million to its chief executive, which is in itself enough to build 100 homes? How do the Government square that with the bedroom tax, which in Newcastle alone costs 3,000 households £2 million a year?

Moreover, why, when the Government have announced additional expenditure of £1 billion, has the Treasury published plans to spend only £880,000? What conditions, if any, will they impose on the application of this funding?
The Local Government Association points out that in the past five years, local authorities have lost enough properties to house the entire population of Oxford. How many more people do the Government estimate will now be housed by councils in the light of their changing policy?

One area that is proving problematic is the planning system, with departments struggling to find staff. Again according to the Local Government Association, that has given rise to £200 million being paid to subsidise the cost of applications. It is sometimes alleged that the planning system is delaying or obstructing much-needed housing development, but it should be remembered that last year, 90% of applications were approved. In 2016-17, councils gave permission to build more than 321,000 homes, and there are currently 430,000 approved homes waiting to be built, with 90% of applications being approved. The planning system has been criticised tonight—rather unfairly, if I may say so.

A couple of years ago, the Local Government Association found that taxpayers are subsidising the planning process for housebuilding by some £200 million a year. That comes at a time of unprecedented cuts in government funding for local councils, causing serious problems in the delivery of important local services, with this year’s overall funding gap of £3 billion due to rise to £8 billion by 2024-25. Will the Government review the position and allow a further increase in what may be charged for planning applications?

Of course, there are other pressing issues, not least rising figures of homelessness and the decanting of people to distant locations from where they currently live. In addition, we suffer all too frequently problems over housing asylum seekers and refugees without the provision of adequate support. What attempts has the department made to engage the Home Office, whose track record on this issue and the outsourcing required have demonstrably failed too many of these unfortunate people and the communities to which they have been sent.

One burgeoning area of housing development is the massive growth of student accommodation, some purpose-built and some replacing long-term residents of town and city houses and flats. Neither the students nor the developers pay council tax or business rates. The former is understandable, but the latter at least merits consideration. We have a rash of newly built student accommodation in and around Newcastle city centre; again, no business rates or any such rates derive from them. Have the Government given any thought to this issue? If not, will they look at it again?

As the long title of the debate and its many speeches illustrate, there is more to housing policy than numbers, vital though they are. We are well below European standards in terms of the size and energy efficiency of our housing stock—a matter to which I and other Members of your Lordships’ House have referred from time to time in this Chamber, and which has been raised in this debate.

The Grenfell tragedy is a stark reminder of the need to be alert to issues that could lead to major problems. What steps are the Government taking to ensure that the safety of residents is a prime duty of the builders and owners of homes, especially apartment blocks? What steps are they taking to ensure that leaseholders are not made liable to pay for the necessary precautionary steps of replacing vulnerable cladding and ensuring that other safety requirements are met? What assistance will be made available to local authorities to ensure that residents or employees are not left at risk in either private or publicly owned blocks, be they residential or used for other purposes?

Finally in this area, we need to keep under review the role of the private rented sector. Many private landlords live up to their responsibilities but, all too often, others neglect their obligations, fail to ensure that their properties are in good condition or act unlawfully when dealing with their tenants. Will the Government do more to encourage selective licensing of landlords and ensure that legal aid and advice are much more available, given that there are legal aid deserts for housing law problems?

On a more positive sign, I welcome moves to update the building industry in terms of design, especially in the areas relevant to climate change, home safety and, not least, adaptability. In that respect I suppose I declare a potential future interest in the light of people living longer and possibly needing more accommodation of that kind.

We have an issue with housing in this country. It is one that has gone on for a long time. The tone of the Minister’s speech elicited sympathy and support around the Chamber. I hope it marks a significant change in government policy across the whole range of housing issues. After all, we have too many people who are still homeless or still seeking decent permanent and affordable accommodation. We look forward to the Government developing and building on the useful but limited improvements in their policy that have been enunciated tonight. Across the House, we hope to see an increase in the number of affordable, good-quality housing in all tenures. In particular, I would argue—with the support of certainly some Members of your Lordships’ House—that the role of local authorities needs to be enhanced and promoted in achieving those objectives.

9.41 pm

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords across the Chamber for some notable contributions to an extremely important debate on many important areas of policy. It is certainly a subject to which I am very much committed. I will say at the outset that I will ensure that any points I miss in the relatively limited time I have left are picked up afterwards. I will write to noble Lords who have participated in the debate and leave a copy in the Library. I will also ensure that Mark Farmer receives a copy of the debate and I shall be keen to follow up points with him afterwards, which is important. I will also ensure that other government departments receive a copy of the debate, which has been very far-reaching.

I am certainly an idealist, but an idealist without illusions. That is the way I hope to respond to the debate. I am used to being called to account for issues relating to communities, local government and housing—that is fair enough—but one or two points were about the global challenge of climate change. I am always grateful to noble Lords who exaggerate my powers,
but some of those matters are perhaps a bit more cosmic. I very much identify with the Greta Thunberg contribution; it is important that we listen to young people with that idealism and act accordingly. I was very pleased that Michael Gove responded very positively to what she said. If I may, I shall pick up some of those points later.

I shall deal with the contributions in the order in which they were made by noble Lords. Again, forgive me if I miss points; they will be picked up later by the team. The noble Baroness, Lady Thornhill, made a very positive contribution. I thank her very much for her support for many of the things that we are doing. She talked about tackling the big boys—and presumably, in a spirit of non-sexism, the big girls—and ensuring that the larger developers deliver. I think I have indicated before that we are watching closely at the big developers to ensure that they are giving value for public money and treating consumers properly. We still have concerns and we are watching them like hawks.

The noble Baroness mentioned the Building Research Establishment in Watford. I should also like to mention the very good and helpful work it does, and has done since 2005, on modern methods of construction. She mentioned the current work on modern methods of construction to help with climate change. For example, Specific, which is based in Swansea and is in receipt of government funding, is very much doing that. She also mentioned dementia-friendly housing and so on. The possibilities are considerable and it is important that we take them all on board. She also mentioned the skills shortage, which I did reference in my initial speech. Mark Farmer has reported on this, and we are acting on the earlier review. I will, if I may, expand on that in a letter.

I turn to my noble friend Lord Patten, who first of all challenged us on what examples of modern methods of construction homes can be seen. The noble Lord, Lord Stunell, also raised that issue. There are some modern methods of construction homes that can be seen, for example in Gateshead—the noble Lord, Lord Beecham, will probably be aware of those at the Gateshead Innovation Village—and in North Shields at Smith’s Dock. There are also some in Yorkshire at Derwenthorpe and they are, I think, being developed in Basildon, where Swan Housing has delivered some homes with housing association partners. Those are some specific examples, and I will give further details in the letter.

My noble friend Lord Patten also asked about the definition of “sustainability” in housing. It is in the National Planning Policy Framework, which gives quite a long definition and talks about the three overarching objectives—economic, social and environmental. Again, I will give further details of that in the letter.

I thank the noble Baroness, Lady Warwick, very much indeed for the positive points she made; I know that she comes with considerable experience as chair of the National Housing Federation. She talked quite rightly about the barriers to modern methods of construction, which we are addressing through the working group led by Mark Farmer, and, very importantly, the issues of the risk to buyers and the availability of money to borrow and so on. She was absolutely right on that. She also talked about the standardisation of some features—again, the working group is looking at that, and I accept its importance. She talked about the “drumbeat of demand”. That is a very good phrase, if I may say so, and it is important—without the demand, it is not much good putting resources here. We hope to tackle this through the work the group is doing.

My noble friend Lord Borwick talked about the challenge of homes having appropriate access and the London factor—not that there is a different standard, but in terms of the percentage of homes available. I understand the concern, and it will be looked at when we review Part M, which is due to start shortly. Part M is part of the Hackitt review of building regulations, and of the commitment post-Grenfell to look at accessibility. It is important to note, if I may say so to my noble friend Lord Shinkwin, that it is not just about planning; it is about building regulations, which are key to getting this right. The Building Regulations Advisory Committee is due to report shortly to the department on Part M, and I hope that we can respond positively. I thank the noble Baroness, Lady Thomas, very much for what she said about people at times being prisoners in their own homes; that is a very graphic description of what happens. She is right that some planning authorities take this issue more seriously than others; that is why the work on the building regulations is so important. I hope that helps her on the timescale, but I will try to expand on that in a letter as well.

I thank the noble Lord, Lord Best, who is really the eminence grise in this area, if I may say so. To have praise from him for what we are doing means a lot. I know the work that he has been doing, and I thank him for it. He talked about the triumph of good sense. The noble Baroness, Lady Thornhill, also talked about the importance of a growing consensus on many of these issues. I am very keen to establish that; it is the best way of moving things forward. There is a consensus in the House on many of these issues—not necessarily on everything, but certainly on the macro position. There may be differences on some of the micro, but if we can agree on the macro that will be a good start; maybe we can agree on some of the micro as well. I thank the noble Lord very much for what he said and the work he is doing. He will know that we are doing work on the Housing Ombudsman service, leaseholder reform and so on. There is a lot happening in the department. I am not sure I was terribly flattered by that being characterised as U-turns—touches on the tiller would certainly be a true description. I am very grateful for what he said.

I thank the noble Lord, Lord Palmer of Childs Hill, for the positive stance he took, and as another inhabitant of the Borough of Barnet, I know that he is absolutely right that the MMC, which came of age after the war, is still very much intact in Barnet. That demonstrates how homes can be made durable, which is something we have to ensure with the new generation. There may be differences on some of the micro, but if we can agree on the macro that will be a good start; maybe we can agree on some of the micro as well. I thank the noble Lord very much for what he said and the work he is doing. He will know that we are doing work on the Housing Ombudsman service, leaseholder reform and so on. There is a lot happening in the department. I am not sure I was terribly flattered by that being characterised as U-turns—touches on the tiller would certainly be a true description. I am very grateful for what he said.

I thank the noble Lord, Lord Wills, for his contribution and I think I have indicated before that we are looking at lots of different things. In particular, he talked about the large property developers and the aftercare that they provide—and, in one or two cases, sadly do not provide. As I say, we are looking at that. He asked about standardisation of products, which is important, and the working group is looking at that as well.
The noble Baroness, Lady Walmsley, raised the issue of local government discretion on planning re-
sustainability. I am happy to meet her about this, but if she is talking to specific examples, perhaps those involved
could write into the department with their particular

My noble friend Lord Bethell spoke about the
importance of ensuring, in relation to disability, that
we build homes for the future. It is true that that will
affect all of us, our relations and our friends. We have
to realise that this is a necessary ingredient, not a
desirable one, and I hope that this will inform the
review of Part M when that comes forward. He talked
about decarbonisation as part of the delivery by MMC. In
a way it is like spinning plates, keeping all these things in
the air at once. The carbon challenge is one of the
things that MMC can help us deliver on, as well as
providing British jobs, providing housing more quickly,
and responding to the sort of design that people need,
so we need to do that. The noble Earl talked about
construction skills as well; of course, I mentioned the
Farmer report, which made some recommendations in
that regard. The DfE has invested money in the
ConstructionSkills council, which will help with that.

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My noble friend Lord Beecham, will know that I
have great respect for what he does in this House,
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by the leader of the Local Government Association. To local government core spending, we can add spending on metro mayors, the stronger towns fund and many specific funds which increase the amount available in a local area. However, I appreciate that he is quite right that there is a challenge on homelessness. We have made some progress in the past year, although there is much still to do. I will enlarge on that, too, in the letter, if I may.

In conclusion, I thank noble Lords very much indeed for what has been, although delayed, a very important and useful debate for all of us. It has been very useful for the Government. I will ensure that points I have not mentioned are picked up and that we circulate what was an excellent debate very widely.

Motion agreed.

House adjourned at 9.59 pm.