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PARLIAMENTARY DEBATES
(HANSARD)

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OFFICIAL REPORT

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

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House of Lords

Thursday 4 July 2019

11 am

Prayers—read by the Lord Bishop of Carlisle.

Royal Assent

11.07 am

The following Acts were given Royal Assent:

Non-Domestic Rating (Preparation for Digital Services) Act,

Holocaust (Return of Cultural Objects) (Amendment) Act.

The following Measure was given Royal Assent:

Church Representation and Ministers Measure.

Sharia Law: Marriages Question

11.08 am

Asked by **Baroness Cox**

To ask Her Majesty's Government what progress they have made in implementing the recommendations of the independent review into the application of sharia law in England and Wales published in February 2018 (Cm 9560), in order to protect Muslim women, and what assessment they have made of Resolution 2253 (2019) by the Council of Europe that all Islamic marriages should also be registered as civil marriages.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, further work on the issues raised began in the spring, as announced in the *Integrated Communities Action Plan*. This work will explore reform possibilities in relation to the issue that some people may marry in a way that does not create a legally recognised marriage. This exploration will be conducted independently of the wider Law Commission review of marriage ceremony law.

Baroness Cox (CB): My Lords, in thanking the Minister for his reply, I ask whether he is aware that my Question is almost identical to the one I asked on 28 February. I have had no response, nor seen any evidence of progress on this crucial issue, which causes such suffering to Muslim women through the application of sharia law. Many come to me desperate, destitute and even suicidal, with no rights following asymmetrical divorce inflicted by their husbands, or trapped in unhappy polygamous marriages. The recommendations of the sharia law review and the message from the Parliamentary Assembly of the Council of Europe are totally consistent with the objectives of my Private Member's Bill, which requires all religious marriages to be registered, thereby giving women the rights they so urgently need. Therefore, I ask the Minister for an assurance that the legislation will be introduced with great urgency, as so many women are suffering in ways that would make the suffragettes turn in their graves.

Lord Keen of Elie: My Lords, we understand and recognise that there is a very real issue here, but it is more of a social issue than a legal one. I cannot accept that the proposed way forward set out by the noble Baroness in her Private Member's Bill is appropriate. Her proposals would effectively deregulate marriage ceremony law and undermine the safeguards in it, including those relating to sham and forced marriages.

Baroness Manzoor (Con): I disagree with my noble friend the Minister. It is not a social issue, but a legal one. Therefore, I entirely agree with the noble Baroness, Lady Cox, that this needs to be looked at urgently. We can have a register that allows imams to register nikah ceremonies easily. We need to do this as quickly as possible.

Lord Keen of Elie: My noble friend is perfectly entitled to disagree with me, and I in turn disagree with her. Let us be clear on what the position is, because some of this proceeds on a misapprehension. It is perfectly possible to perform a lawful marriage in England and Wales under sharia law provided that the relevant mosque has been identified and registered by the registrars as a place for the performance of that ceremony, and a person has been identified by the registrars as suitable to be present for that ceremony. The law of England and Wales has then to be adhered to. Sharia law is not the law of England and Wales; it has no standing. Our national marriage law prevails in these matters. I reiterate: we understand and appreciate that there is a social issue here, because many are not aware of the true position of our law in respect of marriage. Indeed, many are not prepared to adhere to that in circumstances where one or other party may be ignorant of their true position and its consequences.

Baroness Burt of Solihull (LD): My Lords, the Council of Europe, referred to in the Question from the noble Baroness, Lady Cox, is very clear that where human rights are concerned there is no room for cultural exceptions. The independent review, commissioned by the Government in 2016, is also clear on its main recommendation that Muslim women undergoing Islamic marriage must be protected by British civil law. Too many vulnerable women are suffering and will suffer until the Government pull their finger out and implement this recommendation.

Lord Keen of Elie: My Lords, with great respect, some of what has been said by the Council of Europe in its Resolution 2253 does not reflect the true position of marriage law in England and Wales. In particular, the reference to civilly registering a marriage is inept. It does not reflect the true position of our law in England and Wales. Civil registration per se is not a route to a lawful marriage.

Lord Desai (Lab): My Lords, in the present circumstances, what is the position of triple talaq? Is it still possible for a Muslim man to divorce his wife just by saying, "Talaq, talaq, talaq"? Is the Minister aware that in India a Bill is before the two Houses of Parliament to reform the triple talaq Act? Will Her Majesty's Government follow that example?

Lord Keen of Elie: My Lords, divorce in England and Wales is determined by the national law. It is not determined by religious observance or religious laws. Therefore, it will be necessary for a party seeking a divorce from a lawful marriage made in England and Wales to proceed under our national law. We appreciate that there are social difficulties regarding some religious groups in circumstances where a person might believe that they have been divorced under religious provisions, whether of the type the noble Lord just referred to, under sharia law, or indeed sometimes regarding the get in the context of the Jewish religion.

Lord Singh of Wimbledon (CB): Does the Minister agree that culture should never trump human rights and that all citizens of this country should enjoy equal protection under the law?

Lord Keen of Elie: It is essential that all citizens have equal protection under the law. It is also important that they are treated equally under the law.

Lord Garel-Jones (Con): Does my noble friend agree that it is perhaps a little misleading to refer to sharia rules as law? All religions have a perfect right to set out the regulations of their faith, but is it not wrong to refer to those regulations as law? With the exception of the Church of England's ecclesiastical and religious regulations, they are subject to UK law. Consequently, does my noble friend agree that if sharia regulations—for example, on the treatment of women—conflict with UK law, then UK law, being sovereign, overrides these regulations?

Lord Keen of Elie: My noble friend is absolutely right. Clearly, national law must be adhered to. I do not take exception to the reference to religious law, or sharia, in a social context. There are parties who wish to adhere to that because of their religious beliefs, but they must understand that it is subject to the law of the land, and that sharia is not the law of the land and has no standing as such.

Independent Inquiry into Child Sexual Abuse *Question*

11.15 am

Asked by Lord Campbell-Savours

To ask Her Majesty's Government what discussions officials from the Home Office have had with the Independent Inquiry into Child Sexual Abuse in the last month.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, as sponsors to the inquiry, Home Office officials have a responsibility to protect the inquiry's independence and ensure that it has the resources it needs to deliver its terms of reference, as set out in the IICSA management statement. Regular discussions have taken place in the last month regarding such sponsorship.

Lord Campbell-Savours (Lab): My Lords, is it not ironic that, while so-called complainants with substantial criminal records are accorded anonymity as witnesses before IICSA, those who stand accused, such as Harvey Proctor and Lord Janner, still have no anonymity, no right to cross-examine witnesses and no right of defence, and can still be freely attacked, even when they are dead? IICSA is not listening to Parliament. Is this not precisely what Sir Cliff Richard was referring to yesterday when launching the FAIR campaign, a petition for pre-charge anonymity now being supported by thousands every day? The law is an ass and should be reformed. I ask noble Lords to listen to the excellent episode of "The Moral Maze" broadcast last night on BBC Radio 4, in which these matters were dealt with beautifully.

Baroness Williams of Trafford: My Lords, on the first point, the hearings are inquisitorial and enable the inquiry to test witnesses and their evidence. All core participants are provided with the evidence; their legal teams are permitted to propose questions for the witnesses and apply to the chair for permission to put them. Regarding the point that the noble Lord made yesterday, I cannot comment on the handling of specific investigations but, as I said then, current police guidance is very clear and adopts a similar approach to that advanced by the petition to which the noble Lord refers. Suspects' identities should not be released before charge, save in exceptional circumstances and with proper oversight. I am not aware of evidence to suggest that the police are not following that guidance.

Lord Paddick (LD): My Lords, for too many years, victims of child sexual abuse have been ignored; it is now their time to be heard. What consideration have the Government given to special provisions where serious allegations of child sexual abuse are made against those who have died or are otherwise unable to defend themselves?

Baroness Williams of Trafford: I wholeheartedly agree with the first part of the noble Lord's question. For too long, those victims have been ignored. On the anonymity to which he refers—we talked yesterday about his Bill—I explained in my Answer to the noble Lord, Lord Campbell-Savours, about the presumption of anonymity, save in exceptional circumstances.

Lord Cormack (Con): My Lords, does my noble friend accept the seething discontent in your Lordships' House about the way in which the reputations of Sir Edward Heath, Leon Brittan and Greville Janner have been trashed? Can she not see that this House wants something like a royal commission to be set up on this issue, appointed by the Government and given six or nine months to report?

Baroness Williams of Trafford: I of all people am very aware of the anger in your Lordships' House. Let us get to the heart of what IICSA is about: I am also aware of the historic issues that need to be tested and explored through that inquiry, for all those people for whom some of the historic events have not yet been addressed.

Lord Rosser (Lab): As the Minister said, the College of Policing's guidelines advise officers not to, "name those arrested, or suspected of a crime, save in exceptional circumstances where there is a legitimate policing purpose to do so".

Yesterday, in the debate on the Question in the name of the noble Lord, Lord Lexden, two noble Lords referred to the desirability for a judge or a court to have to approve the release by the police of the name of an individual arrested or suspected of a crime but not charged, as opposed to that approval being given, as now, by a chief officer following consultation with the Crown Prosecution Service. I am not quite sure of the Government's position on this point. Do they believe that the present College of Policing guidelines satisfactorily address the issue of anonymity until charged for those arrested or suspected of any offence, or are they now seriously considering whether the decision to name an individual not yet charged should be judicial, rather than for the police?

Baroness Williams of Trafford: Perhaps it would be helpful if I went over what I said yesterday. The College of Policing's authorised professional practice guidance on relationships with the media makes it clear that suspects' names should be released to the media prior to charge only in exceptional circumstances if there is a legitimate policing purpose to doing so—for example, where there is a threat to the public or for the prevention and detection of crime. This approach recognises that there is a risk of unfair damage to the reputations of those arrested, particularly if they are never charged. The noble Lord asks whether we support this approach. Yes, we do; as I said to the noble Lord, Lord Campbell-Savours, we have every evidence that the police are sticking to that guidance.

Lord Lexden (Con): Does the new guidance mean that never again will a police officer pronounce, having talked to a complainant, that his evidence was credible and true?

Baroness Williams of Trafford: The issue of Operation Conifer allowed the police to look at the guidance and make sure that it is as clear as it can be. As I said, there is no evidence that the police are flouting that guidance. I hope that that situation will continue.

Baroness Hussein-Ece (LD): My Lords, child abuse is endemic in many institutions and has been historically. What is being done to ensure that people who are now older, but who suffered so terribly in different institutions, are still encouraged to come forward, give evidence and seek justice? We know that many have already committed suicide or died, but it is very important that we do not forget that those children and young people need protecting.

Baroness Williams of Trafford: The noble Baroness is absolutely right; many of those children are now well into adulthood, and it is very important that people feel that they can come forward and give their testimony to the inquiry. More than 320 individual victims and survivors are participants in the inquiry, as well as a number of other survivor groups and institutions. To date, the inquiry has received almost 2 million pages of evidence, while more than 300 witnesses have given evidence.

Railways: South-eastern Franchise Question

11.24 am

Asked by **Lord Berkeley**

To ask Her Majesty's Government what estimate they have made of the cost to the new South Eastern franchise arising from any increase in track access charges proposed by HS1 to the Office of Rail and Road.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, the periodic review process that will determine the new track access charges for HS1 from April 2020 is ongoing and is the responsibility of the independent rail regulator, the Office of Rail and Road. In line with the published draft franchise agreement, the operator of the new south-eastern franchise will be held harmless to any regulated track access charges proposed by HS1 and agreed by the ORR, following regulatory scrutiny.

Lord Berkeley (Lab): I am grateful to the Minister for that Answer, but she will be aware that HS1 has applied for increases in track access charges of 25% for domestic south-eastern trains, of 40% for Eurostar services and of 75% for the freight that has to use that line. Will the Minister remind the ORR of its duties under the 1993 Railways Act and subsequent legislation, and I quote,

"to promote the use of the railway network in Great Britain for the carriage of passengers and goods",
and,
"to protect the interests of users"?

I suggest to her that for the regulator to allow such increases will dramatically harm passengers in the south-east by increasing fares. Is it not better to protect the passengers, rather than to line the pockets of the pension funds, including the Korean pension fund, which now owns that piece of track?

Baroness Vere of Norbiton: I thank the noble Lord for his observations. As he well knows, this process is ongoing, so any increases are not yet confirmed. But my department expects the independent regulator, the Office of Rail and Road, to provide a robust and rigorous challenge to HS1's proposals, as part of the review process. I am aware that this process has been going on for 18 months and is continuing.

Baroness Randerson (LD): My Lords, Eurostar operates in a multimodal travel market that includes airlines, and HS1 is already the most expensive railway in Europe by a big margin. If the Government are serious about reaching zero carbon by 2050, this is just the kind of cost that needs to be kept firmly under control. It is not acceptable for the Government to hide behind the regulator. Can the Minister give me an assurance that the Government will make it clear to the regulator that costs like this must be well controlled?

Baroness Vere of Norbiton: I assure the noble Baroness that the Government are making it clear to the regulator that we expect a robust and rigorous challenge. It is of course independent, but we recognise the importance of Eurostar, both for environmental reasons and for providing extra capacity on a different mode of transport. We support high-speed passenger services to Europe.

Lord Haselhurst (Con): My Lords, is it not of great concern that cross-channel operators, whether of freight or passengers, would be severely affected by the proposals as they currently stand? Is it not a bit bizarre that the long-awaited new trains for the Anglia region, which will make a once-in-a-lifetime journey there, will have to be carted on freight trains, as they are not allowed to go under their own steam, incurring extra cost? Are these not reasons why my noble friend should keep a close eye on the current discussions to ensure that a fair solution is found?

Baroness Vere of Norbiton: I reassure my noble friend that we are keeping a very close eye. Obviously, the new trains are freight like everything else when they are being transported, but we are concerned by the proposed significant increases. As I have said, we will be looking to the ORR to provide that robust challenge.

Lord Snape (Lab): Does the Minister agree that it was perhaps an unfortunate business for the coalition Government—which I recollect included the Liberal party—to vote to sell Britain’s first high-speed line to a foreign-based consortium? Does she agree with my noble friend that such consortia will be more concerned about their return to Canadian teachers, as well as South Korean pensioners, than the plight of passengers travelling between St Pancras International and Ashford? Whether she agrees or not, what is she going to do about it?

Baroness Vere of Norbiton: I thank the noble Lord for that comment. I do not agree—surprisingly enough—that the sale of this asset to investors, foreign or otherwise, was a bad idea. Long-term infrastructure investors can provide a useful source of capital to assets precisely like this. This is why the ORR is involved in this process: it will determine if the concession agreement is being met and the outputs that HS1 must deliver in the next control period. It will look at the asset management plan, the regulatory framework, the structure of the charges and the charges themselves.

Lord Beith (LD): My Lords, will the Minister clarify the press reports about franchising that have appeared today, indicating that the Government may give the state-owned LNER a five-year extension of its franchise?

Baroness Vere of Norbiton: I am afraid that the noble Lord has me stumped on that one, because I have not seen those press reports. I will certainly write to him if I can find out any more information.

Lord Lea of Crondall (Lab): My Lords, does not this debate reveal that there is still a contradiction in the Government’s own transport policy on the benefits of freight traffic being on rail? This extraordinary increase in charges from HS1 should be investigated. The Government have not answered the question from the noble Baroness on the Liberal Democrat Benches about whether this is compatible with the Government’s transport policy.

Baroness Vere of Norbiton: The Government absolutely support the movement of freight on rail. We were interested to read the report on freight by the National

Infrastructure Commission. It is a very good study, and we will be taking forward further work in this area. I remind the noble Lord that we have invested £500 million through the strategic freight network fund and made very important investments at some of our ports and elsewhere. We also provide rail freight subsidy through the mode shift revenue support grants for national rail track of £15.6 million, which takes 800,000 lorries off the road.

Councils: Funding

Question

11.31 am

Asked by **Lord Kennedy of Southwark**

To ask Her Majesty’s Government, further to the Local Government Association’s initial findings of its survey of council finances, published on 2 July, what steps they are taking to ensure that councils have sufficient funding to fulfil their legal duties.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare my interest as a vice-president of the Local Government Association.

Lord Young of Cookham (Con): My Lords, the Government recognise the vital work that councils do to support their communities. That is why the 2019-20 settlement confirmed that councils’ core spending power will increase by 2.8% in cash terms, including an additional £650 million for social care. This is a real-terms increase in resources to support critical services. The department is preparing actively for the spending review, which is the right place to take long-term funding decisions.

Lord Kennedy of Southwark: My Lords, the research just published by the Conservative-led Local Government Association—referred to in my Question—shows that one-third of local authorities fear they are going to run out of funds by 2022-23, rising to two-thirds of councils by 2024-25. In the light of this disturbing and sombre news, does the Minister have any words of encouragement, hope—something—for hard-pressed local councils and their civic leaderships as they end their conference today in Bournemouth?

Lord Young of Cookham: Local councillors and local government officials have done remarkably well to maintain, and in some cases improve, the quality of the services they provide despite, since 2010, a reduction in grant until recently, which was necessary to balance the national accounts. I recognise that they have done that without excessive rate increases. Looking forward, I have seen the report to which the noble Lord refers and welcome the Local Government Association’s attempt to quantify the pressure on resources. That information will be used by Ministers to feed into the spending review to make the case for a proper settlement for local government.

Lord Shipley (LD): My Lords, I also remind the House of my vice-presidency of the Local Government Association. Local government will be pleased that the Minister thinks that the sector is doing “remarkably well”.

Indeed it is, but does he accept that local government is facing ever-rising costs in service provision at the same time as increasing pressure on income, not least from business rates in the retail sector? Do the Government accept that this situation is turning into a crisis and would benefit from urgent cross-party discussions across national and local government, looking forward to the spending review but also examining fair funding, assumptions about council tax levels and the future of business rates?

Lord Young of Cookham: I say to the noble Lord that I was a vice-president of the Local Government Association—until I was expelled for introducing rate-capping in the 1980s. On the serious issue he raises, extra funding announced in last year's Budget means that the Government will have given councils access to £10 billion of dedicated funding that can be used for adult social care, which is the real pressure point, in the three-year period to 2019-20. That is a combination of the adult social care precept and the better care fund. As for his invitation to cross-party discussions, those are always welcome: it is always helpful to have consensus on how local government is funded. Announcements on fair funding and the business rates retention scheme will be made alongside the decisions of the spending review.

Baroness Neville-Rolfe (Con): What can be done to ensure adequate funding for trading standards officers, who do such an important job on product safety? Fake airbags, dangerous tumble dryers: this disturbing list could get longer unless priority is given to this work in the spending review. It does not require huge sums of money, but it does require better resourcing.

Lord Young of Cookham: I pay tribute to the work done by trading standards officers, whose case is championed by my noble friend. As she will know, local government does not like funding that is ring-fenced, so the resources for trading standards are included in the block grant. As I said a few moments ago, there has been a real increase in the funding for this year's settlement; I hope that when we get next year's settlement, there will also be a useful increase. It is then up to local government to give priority to the services my noble friend referred to.

The Earl of Listowel (CB): My Lords, has the Minister read the report by the Children's Commissioner for England, an in-depth study of spending by local authorities on children's services? It highlights that 2.32 million children in this country are suffering from significant risk factors and that by 2025 we will need to spend £10 billion a year to meet these children's needs. Does he agree that we need to fund local authorities better so that they can provide the essential early support to families, so that children at risk do not need to be taken into care, foster care or residential care?

Lord Young of Cookham: The noble Earl makes a powerful point. In the Budget last year, £410 million was added to the social care support grant for adults and children. The case he has just made, reinforced by the report he refers to, will reinforce the case to be made by Ministers at MHCLG in their discussions with the Treasury about future funding.

Lord Grocott (Lab): My Lords, given the Government's advocacy and indeed imposition in many parts of the country of directly elected mayoral systems, and given the enormous pressure on local government finance, will the Minister tell us whether these new systems represent good value for money in comparison with more traditional methods of local government administration? If he does not have precise figures to hand, is it not worth at least examining the comparative costs of the two systems of local government?

Lord Young of Cookham: The Government have not imposed mayors on parts of the country; they have elected to have mayors. There has been no imposition. In all the cases involving combined authorities and local mayors, local government has come to the Government and asked that these powers be given to them. I think the noble Lord will find that he is misinformed that we have imposed this structure on local government.

Lord Forsyth of Drumlean (Con): My Lords, has my noble friend had an opportunity to read the report today on social care from the Economic Affairs Committee? Will he note that social care and local authorities have seen a real-terms cut in resources and that 1.4 million elderly people are not receiving the care they need? Does he not recognise that shifting the burden on to local government and relying on business rates results in postcode inequality, as different local authorities have different demands and different abilities to raise resources? Should this not be funded centrally, and done urgently?

Lord Young of Cookham: I took the precaution of getting a copy of my noble friend's report, which was published this morning. For the last 30 or 40 years, Governments have been trying to bring together health and social care. If you are an elderly person in need, you are not interested in a bureaucratic argument as to whether yours is a health or a social care problem; you want the support that you need. The dilemma my noble friend's report addresses is that health is provided by national government and is free at the point of use, while social care is provided by local government and is means-tested. He addresses that problem by suggesting that local government should provide social care but it should be free and be funded by central government—that is the nub of the report. It is a hard-hitting report that expresses noble Lords' frustration at the delay to the publication of the social care Green Paper. I very much hope that his report will accelerate a solution to this long-standing problem.

Business of the House

Timing of Debates

11.40 am

Moved by **Baroness Evans of Bowes Park**

That the debate on the Motion in the name of Lord Brooke of Alverthorpe set down for today shall be limited to 2 hours and that in the name of Lord Young of Norwood Green to 3 hours.

Motion agreed.

Delegated Powers and Regulatory Reform Committee

Human Rights Committee

National Security Strategy Committee

Secondary Legislation Scrutiny Committee

Membership Motions

11.40 am

Moved by *The Senior Deputy Speaker*

Delegated Powers and Regulatory Reform Committee

That Lord Tope be appointed a member of the Select Committee, in place of Lord Tyler.

Human Rights Committee

That Lord Dubs be appointed a member of the Select Committee, in place of Lord Morris of Handsworth.

National Security Strategy Committee

That Baroness Neville-Jones be appointed a member of the Select Committee, in place of Baroness Neville-Rolfe.

Secondary Legislation Scrutiny Committee

That Viscount Hanworth be appointed a member of the Select Committee, in place of Lord Haskel.

Motion agreed.

Serco Statement

11.40 am

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, with the leave of the House, I shall repeat in the form of a Statement an Answer to an Urgent Question asked in the other place earlier today. The Statement is as follows:

“We very much welcome the fact that by court approval today the Serious Fraud Office has reached a conclusion in its investigations of Serco. These historical contracts ended in 2014 and were awarded as long ago as 2004. The agreement allows the parties to draw a line under the matter. Following the successful conclusion of this process, we see no reason why Serco should not continue to be a strategic supplier to the Government and compete for government contracts.

We conducted an investigation of the matters raised in the agreement announced yesterday and we are content that the matters were resolved in 2013-14, when Serco reached a financial settlement of £68.5 million with the Ministry of Justice and undertook an extensive self-cleaning exercise. While we deplore the wrongdoing identified in the deferred prosecution agreement announced yesterday, we have confirmed that since 2013 Serco has thoroughly overhauled its management, governance and culture, and that these changes continue to be effective today.

Serco is and will continue to be a strategic supplier to Her Majesty’s Government, working across the defence, justice, immigration, transport and health sectors”.

11.42 am

Lord Beecham (Lab): My Lords, this issue arises out of the Government’s infatuation with the concept of privatising public services—in this area, largely in connection with prison and the probation service. In these areas, privatisation has been a signal failure. Why has it taken six years from the revelation of Serco’s fraudulent charging for the offender tagging contract between 2010 and 2013 to secure the payment of £19.2 million? Deloitte has also been fined £6.5 million for its role in the scandal. Why do the Government apparently intend to continue to allow these companies to tender for government contracts of this or other kinds?

Lord Keen of Elie: My Lords, the noble Lord refers to an infatuation of this Government. I remind him that the contracts with which we are concerned go back to 2004, at a time when, at least as I recollect, there was a Government of a different complexion. It was that Government who let these contracts to Serco in 2004 and for many years thereafter.

The resolution of the matter between the Ministry of Justice and Serco took place in 2013-14, when there was a financial settlement of £68.5 million. As to why it took six years for the criminal matter to be concluded by DPA, that is of course a matter for the SFO, to which we lent all our assistance during the course of this very complex inquiry.

Lord Dholakia (LD): My Lords, could the Minister confirm that this is not the first time that allegations of this nature have been made against Serco and G4S? Is he aware that it is alleged that they were charging the Government for electronically tagging and monitoring people who were either dead, in jail or had left the country? Could he confirm whether any further contracts are being offered to Serco and whether it is a fit and proper organisation to undertake these tasks? Why have no criminal charges so far been brought against this organisation?

Lord Keen of Elie: My Lords, I will not comment upon suggested other allegations. There has been a thorough investigation by the Serious Fraud Office with regard to events between 2004 and 2014, and that has resulted in the deferred prosecution agreement, as indicated earlier. We are content that Serco, having carried out a thorough and extensive exercise in cleaning out those involved in this matter, is in a position to accept further contracts from the Government going forward, subject to the same rules and regulations that apply to other third parties. Therefore, it will continue to do so. I make no comment on G4S. It may be the subject of continuing inquiries, and it is not appropriate for me to say any more.

Lord Garnier (Con): My Lords, I declare my interest as the law officer who introduced deferred prosecution agreements into our criminal justice system when I

was in government, and I have also been instructed by the Serious Fraud Office on two of the deferred prosecution agreements—with Standard Bank and Rolls-Royce—since they came into force. Does today's news and the Statement not illustrate the good sense of the deferred prosecution agreement system? It allows companies to come to terms with their wrongdoing, to compensate the victims of their wrongdoing and to pay a suitable penalty for that wrongdoing, while at the same time not causing collateral damage to the contractors, employees and pensioners of those companies who are not affected by, for example, a company being shut down. The events which caused the criminal conduct are to be much regretted, but surely the new board and management have in this case done precisely the right thing in coming to terms with the wrongdoing and making account of it to the public, and, having cleaned its debts, can now get on.

Lord Keen of Elie: My Lords, I entirely concur with the observations of my noble and learned friend. The underlying purpose of deferred prosecution agreements is as he has set out, and the consequences are as he has referred to. It would have been wholly inappropriate to see the jobs of many employees put in jeopardy because of the nefarious activities of some in management, who have now been removed.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, with the Carillion scandal, the Capita scandal and the Serco scandal, do the Government not see a pattern? Will they not learn a lesson and realise that these services—particularly in the NHS—are better in public ownership?

Lord Keen of Elie: My Lords, there is no pattern indicated by the parties to which the noble Lord referred.

Lord Cormack (Con): My Lords, does my noble and learned friend not accept that many of us feel that penal matters should not be in any way administered by private companies? It is about as appropriate to have a private prison as it would be to have G4S guarding Buckingham Palace. I have held that feeling all my political life. Will my noble and learned friend accept that I am not unique in that?

Lord Keen of Elie: My Lords, I am prepared to accept that the noble Lord is not unique. Be that as it may, we currently have no proposals to contract out the guarding of Buckingham Palace or any other royal institution.

Lord Judd (Lab): My Lords, when the Government are approaching these matters, do they evaluate or take into account the invaluable contribution to the quality of the service when people are working for it directly and taking pride in that, rather than feeling that they are working for the profits of a private company?

Lord Keen of Elie: With respect to the noble Lord, people can quite rightly take pride in the fact that they are working for a service even where it is privatised.

Lord Harris of Haringey (Lab): My Lords, what lessons have the Ministry of Justice and other government departments learned from this instance? In particular, are the Government satisfied with the adequacy of the contract management arrangements that they have in place, and have they enhanced them as a result of the various incidents that have been discussed in your Lordships' House today?

Lord Keen of Elie: I am obliged to the noble Lord for his question. In December 2018, the Chief Executive of the Civil Service wrote to central government departments asking each to include contract audit activity as part of the implementation of their outsourcing review. As part of this programme of audits, the Ministry of Justice, the Home Office and the Ministry of Defence have invoked contractual audit rights on five contracts with Serco, and those audits are under way.

The Earl of Listowel (CB): My Lords, is the Minister aware that private prisons are 47% more violent than publicly run prisons? How does he explain this? Is this to do with the difficulties facing those prisons or is it something to do with the culture within private prisons?

Lord Keen of Elie: My Lords, I am not in a position to comment on the statistic that the noble Earl refers to. However, clearly there is an issue of violence and, indeed, of self-harm in all our prisons which we are anxious to address.

NHS: Future UK Trade Deals

Motion to Take Note

11.50 am

Moved by Lord Brooke of Alverthorpe

That this House takes note of the case for protecting the National Health Service in future trade deals entered into by the United Kingdom.

Lord Brooke of Alverthorpe (Lab): My Lords, it is my privilege to move this Motion. I am grateful to my party for giving me this opportunity to speak on this issue, to the House's Library for the comprehensive briefing it prepared, and to others who have sent in briefings, particularly the BMA.

It is important that we have this debate to give us a chance to shine a light on the challenges and threats that we may soon have to face in the event that—with a new Prime Minister at the helm—come 11 pm on 31 October, the UK leaves the EU without any deal. Without a deal, there will be no implementation period and trade deals will become more urgent. I fear that while we have been focused on the withdrawal agreement, other countries have been gearing themselves up for trade agreements with us, with access to the NHS's £127 billion budget in particular being the ultimate prize that many would like to get their hands on.

The NHS was born in 1948 with a promise to provide care based on need and free at the point of delivery. It was an act of faith—a venture of belief that was needed in a still unstable world. To this day, the British public see their taxpayer-funded, free at the

[LORD BROOKE OF ALVERTHORPE]

point of use health system not just as a source of medical treatment but as a vital expression of national values—of equity and compassion. I argue that it is one of the more important bits of glue that still keeps us together. Last year, the NHS celebrated its 70th birthday. It maintains its position as the top health system in the world among the 11 countries ranked in the Commonwealth Fund report, getting top marks for patient safety, efficiency and affordability.

The NHS—even, I acknowledge, with its challenges—stands in stark contrast in both principle and practice to healthcare systems elsewhere that link treatments to the ability to pay. Throughout the world, the fear of illness is a real concern for far too many people, but that fear is greatly increased when they come to add the cost of treatment for it. We in the UK, thank God, are relieved of that. It is little wonder that the NHS is so overwhelmingly supported and loved.

Given the emotional connection, respect and affection that the British public have for their NHS, it is hardly surprising that concerns over budget cuts and funding were cynically expropriated by the Vote Leave campaign in 2016. Noble Lords will not need reminding of Vote Leave's claim that the UK would send to the NHS the £350 million being paid weekly to the EU. This was a harmful and shameful stunt emblazoned on the side of a red double-decker bus—another great British emblem—which the head of the UK Statistics Authority called, “a clear misuse of official statistics”,

in a letter to Boris Johnson.

What Mr Johnson and the Brexiteers carefully concealed by omission is that the EU affords a degree of protection for the NHS from predators and profiteers by limiting market forces' intervention in public health, education and consumer interests through standard setting. Unless covered by a negotiated leaving deal, that will disappear. Instead, any country may seek a trade deal with the UK and might sign up to one only if it has access to the NHS and its many treasures.

The prospect of a trade agreement with the US has raised concerns about what impact future trade terms might have on the NHS. Make no mistake, the Government are desperate for a deal with the USA. President Trump made several characteristically contentious statements during his recent visit to Britain, but his assertion that the NHS would be “on the table” in discussion of any post-Brexit US-UK trade deal was by far the most contentious. Conservative politicians, many of whom had thrown their hat into the ring to succeed Mrs May, were at pains to denounce this possibility. They echoed Mrs May's claim that the NHS will remain as it is today; it will remain free at the point of use. “The NHS is not for sale”—her words, not mine. “We continue to stand by the principles of the NHS”, she said.

However, as many observers were quick to point out, the NHS has long been on the table. Despite the common idea that the UK health system is a public sector endeavour, the private sector, including American-owned companies, already plays a significant part in it. For several decades now—boosted by the Health and Social Care Act 2012—private firms have run NHS services for profit. In 2017-18, the NHS in

England spent £13.1 billion on care provided by non-NHS organisations, equivalent to nearly 11% of the health service's total expenditure. These companies have made no secret of the fact that they see Brexit as a key opportunity to expand their operations and market share. Since the British public voted to leave the EU, corporate lobbyists have been working to ensure that any future trade deal delivers maximum benefit and opportunities for their clients.

When working on a Lords Private Member's Bill for greater transparency in public lobbying in 2017, I was alerted by a City confidante to focus on what might be happening with the NHS in the context of a UK-US trade deal post Brexit. I distinctly recall being told that some City lobbyists were almost wetting themselves at the prospect of the money to be made by gaining greater freedom and entry to trading with the NHS and its mammoth budget. Although this would not be privatisation in the traditional sense, it would nevertheless be an appropriation of NHS assets, with private companies pocketing more of the UK's £170 billion annual health budget, even if they do not actually own the NHS. This represents a significant threat to the model of universal healthcare that we created and now enjoy in the UK.

Some campaigners have also raised concern that the terms of a trade deal with the US would allow investors to claim compensation if they lost access to NHS market, and that that would prevent any future policy change to reduce the current level of privatisation in the NHS. Similar concerns arose during the failed Transatlantic Trade and Investment Partnership talks between the EU and the US and was one reason why those talks collapsed.

Another area of significant interest is pharmaceuticals, where the US is expected to try to incorporate a new reimbursement strategy in a trade deal. Last year, at the behest of corporate America, President Trump accused the rest of the world of freeloading on the US, resulting in high prescription drug prices in the US. He claimed:

“When foreign governments extort unreasonably low prices from U.S. drug makers, Americans have to pay more to subsidize the enormous cost of research and development”.

He particularly blamed countries that,

“use socialized healthcare to command unfairly low prices from U.S. drug makers”.

This is because large state-funded health services such as the NHS buy drugs in enormous volumes, and therefore use their massive bargaining power to set the price at the lowest possible levels. Left to the market, prices are often significantly higher for America's fragmented insurance-based private sector counterparts. President Trump vowed,

“to make fixing this injustice a top priority with every trading partner ... America will not be cheated any longer”,

while his Health Secretary Alex Azar has threatened to use trade talks to try to push up drug prices outside America.

Big pharma spends hundreds of millions worldwide opposing any measures to limit drug prices, and the great success of the NHS's NICE regime has been a

prime target for some time. An outline of negotiating priorities for a US-UK deal issued by the Office of the US Trade Representative included a,

“Procedural Fairness for Pharmaceuticals and Medical Devices”, section, which vowed to:

“Seek standards to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are nondiscriminatory, and provide full market access for U.S. products”.

Although one hopes it is unlikely that any Government would cede to such a demand, the NHS’s ability to hold down drug prices and demand cost-effectiveness before approving their use may be challenging, especially for a weakened Britain desperate to replace lost EU trade after Brexit.

The weakening of what in trade terms are known as non-tariff barriers—including domestic and EU-wide regulations demanding that drugs, technology and staff meet strict standards of safety and utility—may prove a key demand and, in my view, represents a significant risk.

Patient data is another prime area of interest to commercial healthcare firms. The NHS database holds the medical records of 65 million people—a priceless treasure trove of data for technological giants and healthcare firms, for whom real-world data is far superior to clinical data. Experts have warned that data could be a bargaining chip in a trade deal, and there is a risk that the public would not even know about this.

Trade negotiations have transformed in recent years. Recent deals have incorporated a digital trade section setting agreements on e-commerce and data access, and similar terms can be found in the White House’s negotiating objectives for the UK. The US wants data access, powers to use that data under its own laws, full intellectual property protection for its algorithms and an unrestricted market in which to sell the final products. Accessing such data ethically will obviously create concerns. Indeed, a group of Lords are concerned about this, and I believe further comment may be made on it later in the debate.

While the strict GDPR controls cross-border data flows, after Brexit Britain will be free to implement a new data-protection regime. The Americans would like us to have, as the US negotiating objectives put it, “state-of-the-art rules to ensure that the UK does not impose measures that restrict cross-border data flows”.

Britain has not negotiated a trade deal independently of the EU for decades and appears unprepared for talks with the US. Indeed, while the American Government have already published their negotiating objectives, no equivalent document has materialised to date. In response to Questions in March 2019, the noble Baroness, Lady Manzoor, said that the USA’s objectives “are not surprising” and that it is too early,

“to say exactly what will be included in the future UK-US deal”.—[*Official Report*, 6/3/19; col. 611.]

Since then, there has been a public consultation on what the UK should seek in the UK-US deal. What now are the objectives and what will be the agenda in the forthcoming trade deals? Will the NHS be on the agenda? Dr Liam Fox has said that it should be. Is that government policy? If so, just what are the Government

prepared to offer the Americans in the NHS and what chance will Parliament have to scrutinise and influence the outcome of those negotiations?

These are now decisions for the next Prime Minister. It is therefore imperative that both Boris Johnson and Jeremy Hunt move beyond platitudes about the value of the NHS and are open and transparent about their stance on these key areas. While wholesale privatisation remains unlikely, the NHS must be protected from creeping privatisation, whereby an increasing proportion of services are contracted out until it is nationalised in name only. Immensely valuable assets such as data should not be traded. Neither should changes be permitted that allow drug prices to rise, thereby requiring other NHS services to be cut to pay for them.

I hope that the Government will openly commit to specifically excluding the NHS from future trade deals and investor protection mechanisms, and to honouring the high regulatory standards currently enjoyed. If not, they should remember that that grossly misleading propaganda on the side of that double-decker bus will not be forgotten and a real price will be paid for it in due course when the public discover just how they have been duped.

Baroness Goldie (Con): My Lords, are we are very tight for time in this debate, so I ask for noble Lords’ co-operation in looking at the clock. When it flashes, that suggests that something should happen.

12.06 pm

Baroness Fairhead (Con): I thank the noble Lord, Lord Brooke of Alverthorpe, for tabling this debate as it raises two topics that sit at the heart of our country’s identity and of our future—the National Health Service and our future trading relationships. I hope that this debate will flush out two things. The first is that although there is quite properly a fierce desire to protect the NHS for everything that it represents and provides to the UK people, it must not be under threat from trade deals, and we will have the Government’s continued reassurance on that. Secondly, as importantly, having been so reassured, this House must be able to reaffirm how important global trade is to our nation, provided of course that it is underpinned by fair and open international rules. My hope is that this debate will be followed by others that identify trade opportunities and highlight the tremendous benefits that they can bring, including in the vital sector of life sciences.

But first, the NHS. We all agree on the vital importance of the National Health Service. It is at the core of our culture and our national identity. Its impact and reputation were displayed most vibrantly last year, its 70th birthday. I had the privilege last year of representing the UK as a Trade Minister and saw the respect in which it is held worldwide, renowned for its excellence, quality and professionalism and for the dedication and compassion of its extraordinary staff.

We hold a number of elements dear. It should remain universal—open to all who need it. It should be free at the point of use and continue to provide healthcare excellence. Of course, we realise that those must be efficiently supplied within the limits of affordability. But it is worth pointing out that, according to Professor Meredith Crowley at the University of Cambridge, the

[BARONESS FAIRHEAD]

UK and the US have similar outcomes while the UK spends just 8% of its GDP on health compared with 18% in the US.

I turn to some of the genuine concerns raised by the noble Lord and will add a couple of others. The first concern is that our healthcare will be privatised—owned, controlled and even regulated by foreign companies or countries. However, the UK has always maintained its right to regulate in the public interest. It has been clear that decisions on how to run public services are made by UK Governments including the devolved Administrations, not by our trading partners.

Some elements have indeed been opened up under the policies of Labour, Tory and coalition Governments: building management and some elective surgeries. Department of Health and Social Care accounts for 2017-18, the most recent annual figures, show that only 7.3% of spend by NHS commissioners was in the private sector, and that was slightly down on 7.7% the previous year.

What is more, our international public procurement commitments do not apply to the procurement of UK health services. As the Nuffield Trust recently reported,

“a trade deal would not have the power to stop the NHS being a free, universal service”.

Moreover, in my time as Minister, I saw how the Government have gone out of their way to protect the NHS. It is not just words. The draft WTO schedules retain an explicit exemption for the NHS. This, the Government have repeated, will not change in any future trade deal.

The second concern is that standards will be lowered. Again, I recognise why this is challenged, but the Government have been clear that any free trade agreement, whether with the US or another country, must maintain our high standards for businesses, workers and patients as a priority. The British people will accept no less. This, too, has been acted on. The transition agreements have retained all the protections. It is worth noting that newer trade agreements go further; for example, CETA, the EU-Canada trade deal, explicitly states that standards will not be lowered to gain trade advantage.

The third concern is that the NHS will be forced to pay considerably more for pharmaceuticals as a result of the US aim of achieving procedural fairness, which the noble Lord mentioned. I read the article by the noble Lord, Lord Brooke, in the *House*, and I agree with him that that is a point which it is hard to see the Government ceding. The aim of free trade agreements is to secure trade to the benefit of the UK. Higher prices would be unlikely to achieve that.

The fourth concern is, as the noble Lord said, that our medical records data will be misused. There is little doubt that the NHS database is a hugely valuable UK asset. Used properly, it has the potential to provide answers to some of today’s most challenging healthcare issues. We must embrace that, but it is right that the use of such data must be controlled and must absolutely comply with our rigorous data privacy requirements. I believe that that is very much the Government’s intention.

A final concern is the use of investor state dispute settlement mechanisms. It is claimed that foreign companies could force regulatory change and that they could force the Government to open up the National Health Service to competition. However, on this point the legal position is clear. Nothing in ISDSs can force a Government to regulate in a particular way. The Government have been clear that the NHS will continue to be free at the point of use for everyone who needs it.

I understand why some of the recent comments might have heightened concerns, but it is worth pointing out that President Trump did appear to clarify them later, saying, “I don’t see” the NHS “being on the table”, as he did not consider the NHS to be part of trade. However, to reassure both this House and the country, will the Minister repeat the assurances previously given?

Provided these concerns are adequately and appropriately addressed, there is much to look forward to in trade opportunities globally. I saw for myself the innovation, energy and excellence of UK exporters but, while we punch above our weight, we still punch below our potential. That is as true in life sciences as in other sectors. For example, I have seen first-hand the appetite for Healthcare UK—a joint business and government initiative to promote UK healthcare, including the NHS. What it has brought back to this country has achieved real benefits. I have also seen the excitement created overseas from the two life sciences sector deals, which are part of the UK’s industrial strategy. A lot more can be achieved.

I remain firmly of the view that trade, properly pursued, is a real force for good. For the people of the UK it supports jobs, investment, innovation and wealth, and for consumers it provides greater choice, more innovative products and services, and often lower prices. Therefore, alongside my request for reassurance from my noble friend about the ongoing commitment to the NHS, I urge this House to make more use of its expertise in debating trade issues and opportunities to make sure that we play our full role in helping the UK to harness existing trade deals and develop new ones.

12.15 pm

Baroness Brinton (LD): I too congratulate the noble Lord, Lord Brooke, on securing this important debate, which follows hot on the heels of the progress of what started as the Healthcare (International Arrangements) Bill, which I will refer to later.

I thought that it might be worth going back to look at the very beginning of the NHS—its embryo stage rather than its birth. One hundred years ago, Lloyd George created the Ministry of Health, following on from a decade of Liberal reforms, including the National Insurance Act, setting up the contributions for the old age pension, and the Housing Act to build homes fit for heroes, with sanitary conditions to improve public health. The embryo of the NHS developed very fast. In 1942, William Beveridge, another notable Liberal, published his famous report. He was very clear that it was about more than just providing a health service. He said:

“Now, when the war is abolishing landmarks of every kind, is the opportunity for using experience in a clear field. A revolutionary moment in the world’s history is a time for revolutions, not for patching ... Social insurance fully developed may provide income

security; it is an attack upon Want. But Want is one only of five giants on the road of reconstruction and in some ways the easiest to attack. The others are Disease, Ignorance, Squalor and Idleness”.

The NHS sits as the absolute foundation stone in tackling those five things.

The noble Baroness, Lady Fairhead, said that the NHS today is free at the point of need or the point of use. That phrase was used very much as the NHS was born immediately after the Second World War, but what does it actually mean? Unfortunately, I think that as this debate progresses, we will see that it means different things to different people.

I am aware, as many others are, of many services that are currently contracted out from what would have been seen as the original NHS contract between government and hospitals. GPs’ surgeries are, after all, privately run, but they operate to a very clear mandate from the NHS. One can have specialist medication delivered directly to one’s home, and many of the non-clinical services are now contracted out and are all part of the NHS that we are proud of.

However, Brexit has demonstrated that one of the lesser-known pillars of protecting our NHS is also at risk. Not many people know that we are protected by the EU directive on public health procurement. This is an issue that I have raised repeatedly in your Lordships’ House. I just want to note that it directly governs the way in which all public bodies, not just the NHS, can purchase goods, services and works, and it seeks to guarantee equal access to and fair competition in public contracts in EU markets. There is no need to publish procurement advertisements cross-border, which, as Ministers have repeatedly said in Parliament, is a key tool in preventing mass privatisation of the NHS.

If we proceed with Brexit—noble Lords will know that I hope we do not, but we must prepare for the event that we do—and should we leave with no deal, leaving the single market and the customs union, the NHS will lose its biggest but most invisible protector: this directive, which governs all public sector procurements in all member states. It defines those processes and standards and ensures fair competition for contracts; frankly, it also gives us protection against creeping privatisation.

To protect NHS institutions particularly, but not only, from American corporations looking to buy in after Brexit, we must write this EU directive into UK law. The NHS, as we all know, is completely dependent on this. It is in danger. If we do not transfer the directive into UK law, there is nothing to stop the lowest bid for any service always winning wherever it might originate from and without any standard of care.

While there was understandable concern about the TTIP discussions, this EU directive provided a guarantee that US companies could not come in and cherry pick our NHS. On 18 November 2014, the noble Lord, Lord Livingston of Parkhead, answered my Question in your Lordship’s House by quoting an EU Commissioner, saying that,

“Commissioner de Gucht has been very clear:

‘Public services are always exempted... The argument is abused in your country for political reasons’

That is pretty clear. The US has also made it entirely clear. Its chief negotiator said that it was not seeking for public services to be incorporated. No one on either side is seeking to have the NHS treated in a different way ... trade agreements to date have always protected public services”.—[*Official Report*, 18/11/14; col. 374.]

During a debate in March 2018 in which the noble Lord, Lord Brooke, and myself spoke, the noble Lord, Lord O’Shaughnessy, responded to our questions on procurement. He said:

“I can tell them that we have implemented our obligations under the EU directive. The Government are absolutely committed that the NHS is, and always will be, a public service, free at the point of need. It is not for sale to the private sector, whether overseas or here. That will be in our gift”—

that is, the Government’s—

“and we will not put that on the table for trade partners, whatever they say they want”.—[*Official Report*, 29/3/18; col. 947.]

In contrast to the confidence of the noble Baroness, Lady Fairhead, over protection of the NHS, alarm bells have been ringing for me ever since then, not least after President Trump and the US ambassador to the UK both commented that the NHS should be “on the table”, despite the fact that President Trump was asked to modify his words.

I am grateful that the BMA has repeatedly called for the NHS to be excluded from any future trade agreements. Its unequivocal message for the next Conservative Party leader and future Prime Minister is very simple: profit should never take priority over the protection of the health service and the health of citizens. It is a shame that neither candidate has chosen to respond.

Clinicians, managers and directors across the health and social care sector know that remaining in the European single market and maintaining open-border arrangements with free movement of healthcare and medical staff is vital. But if we leave, the most important things we must do are to re-enact in full the EU directive on public procurement and insist that the NHS and social care bodies which tender for contracts use it very clearly and carefully. It is vital that the NHS should be exempt from rules on competition that could lock in competitive procurement of publicly funded healthcare services across the UK—the devolved nations and England.

I agree with the BMA, which is calling for investor protection and dispute resolution mechanisms to be excluded from any future agreement with the United States or other trading partners. This will protect the ability of all four nations of the UK to regulate in the interests of public health.

So why am I so concerned? When we read the first published draft of the Healthcare (International Arrangements) Bill, alarm bells started ringing for some of us. I will quote from it:

“The Secretary of State may by regulations make provision ... to give effect to a healthcare agreement”—

and,

“make provision about set-off arrangements between countries or territories”.

It said that a “healthcare agreement”,

“means an agreement made between the government of the United Kingdom and either the government of a country or territory outside the United Kingdom or an international organisation, concerning either or both of the following”—

[BARONESS BRINTON]

which would include,

“healthcare provided in the United Kingdom”.

Because of an alliance between the noble Baronesses, Lady Thornton and Lady Jolly, the noble Lord, Lord Marks, and others in both our teams and, increasingly during the progress of the Bill, the support of learned judges and learned counsel, we were able to show that the Bill was not re-enacting the reciprocal healthcare arrangements between the EU and the UK but providing the basic foundation for completely free trade agreements. We managed to persuade the Government not to proceed in that way, so I am pleased to say that the Act’s final title is Healthcare (European Economic Area and Switzerland Arrangements) Act 2019, but I think we saw the true colour of the Government.

I am particularly concerned that Liam Fox stated that,

“the government of the day of whatever party ... would determine exactly what the regulations were around the NHS”.

That answer is just not good enough. It is really important that we provide protection for our NHS. It cannot and must not be put up for sale, in part or in whole. Parts of it cannot be sacrificed. We have a duty to ensure that we put in all the protections that we need for any trade agreements that are negotiated.

I ask the Minister, as I have asked before, and I would be grateful for a clear answer: will the Government re-enact the EU directive on public procurement in full in UK law? Everybody, including previous government Ministers, agrees that this is the fundamental protection for the NHS under any future trade agreement.

12.25 pm

Lord Desai (Lab): My Lords, it is a privilege to follow the noble Baroness who, as usual, made an excellent speech on the problem before us. I thank my noble friend Lord Brooke of Alverthorpe. I do not want to praise the NHS; we know that we love it. The issue is not about whether we love the NHS. To a great extent, saying that we will protect the NHS is a statement that can be interpreted in a variety of ways. Every Government that I know of said, “The NHS is safe in our hands”.

However, in the 55 years I have spent in this country, the NHS has changed dramatically. What we want to protect—the core values that are popular with the public—is the concept of being free at the point of use. That is the core that people want to protect and that will command 100% of public support in our negotiations on a free trade agreement. We will go to a free trade agreement because those agreements, by and large, mutually benefit both sides. Trade agreements require give and take. It is not possible to say, “You give me this, but I won’t give you anything in return”. We must be absolutely clear about what precisely we want to protect as the core of the NHS and what is not so much up for sale, because that is a romantic description, but up for exchange—that is, what we will give to get something else. I say this because it is easy to go on in praise mode and forget that a trade agreement is a matter of negotiation.

One thing that has changed about the NHS is the purchaser-provider distinction. Noble Lords may remember that we have been discussing the NHS’s problems with funding, and keeping up with research

and patient satisfaction, since the 1990s. We said that we should distinguish between the purchaser and the provider. The purchaser will always be the public; the state purchases health services and sees to it that they are free at the point of use. However, the provision of health services is not necessarily just in the public sector. Private sector providers can also be in the NHS and sign contracts with it. Those providers are not from just the domestic private sector. Actually, “domestic private sector” is a meaningless term because a British provider can be owned by Americans. That is capitalism, it is a very subtle system. So, we have agreed that private providers can supply services to the NHS. We also know that we buy medicines from not just British providers but others because the state does not manufacture medicines.

We have always had the valuable jewel of the NHS, constructed and kept free at the point of use with great difficulty, but it has been swimming in a tide of increasing privatisation. When it was founded, the idea was of state ownership, Fabianism and all that. It all changed in the 1970s; we are now in a very different world altogether. We escaped the full extent of the effect of privatisation because we went into the European Union, which was also socially democratic, by and large, even when it was right-wing. The Germans had a right-wing but socially responsible philosophy. That is why the public procurement directive, described in detail by the noble Baroness, Lady Brinton, has been very useful to us.

We have to decide at some stage what the core that we want to protect is. I do not agree that we will not let other people profit from the NHS. We are not going to exit capitalism; we are going to exit only the EU. We are not going to rebuild a system in which everything is done not for profit. It is not possible. Forget it. Decide on the core and the precise principle. Do we want the public procurement directive in there? That is a crucial decision. We have to be prepared for the free trade agreement negotiations and be clear in our mind on the precise core of the NHS that we want to protect. We already know that eyes and teeth have gone; we all go somewhere else for them. We also know that we often escape to the private sector when elective surgeries are available only after a delay because of rationing in the NHS. We have to decide precisely what the NHS we want to protect is. It is not possible to rule the NHS completely out of an agreement because that agreement will not start. Let us be clear about that. It would be good to have a non-nostalgic, non-romantic notion of what we want to protect. There is no doubt in my mind that we want to protect it—it is a unique institution and we must protect it—but we have to do so in an intelligent way, not in a way in which we will lose everything.

I mention just one thing about which there will be controversy: data. For some years now, the noble Lord, Lord Freyberg, who will follow me, has urged your Lordships’ House to think of the NHS’s dataset as an asset that we can earn money from. Once upon a time, we said that data were very valuable and that we cannot sell them, but every time I use my smartphone, my data are being sold. Data being sold is no longer a no-go area. We have to be clear: will we sell NHS data?

That is a crucial point for whoever negotiates. Will the sale of data help the NHS's finances or hurt its intellectual property rights? That is the question to be examined.

All I want to say, as I will not take up my full 10 minutes, is: beware of romanticism, nostalgia and thinking that we live in a socialist world. That world is gone.

12.34 pm

Lord Freyberg (CB): My Lords, it is always a pleasure to follow the noble Lord, Lord Desai—and yes, I will be covering that area. I thank the noble Lord, Lord Brooke, for putting down this timely and important debate.

Others will wish—some have done so already—to raise concerns about the extent to which health policy-making, the commissioning and provision of NHS services and the pricing of drugs and life-critical equipment could be impacted by future trade deals that might flow from the UK exiting the European Union. These are all noble concerns worthy of exploration in the time we have today, but I want to draw attention to an issue that I feel strongly about and that I fear has been neglected, despite its critical importance. I am in no doubt that the future of our health services, particularly new life-saving treatments and technologies, will be data-driven in many important respects. I am persuaded that the data which will underpin them—health data about UK citizens, which the NHS currently stewards on their behalf and with their consent—is very much on the table. It will provide a key focus for forward-looking trade negotiations, or else serve as an increasingly important bargaining chip, no matter what the Government might say about the NHS not, in and of itself, being up for grabs.

I have spoken at length on other occasions in this place about the potentially unique value of UK health data, as have other noble lords, and do not wish to repeat myself in this debate, when we are focused on making the case for broad-ranging and increasingly urgent protective measures. I will simply say that trade negotiations and the deals that result from them are all about capturing value, and it must be captured in the public interest, as well as for public benefit, at this pivotal time. I remind noble Lords that today is 4 July, and the people are said to have willed us to take back control of our laws, our borders and our money, not lower the drawbridge, roll out the red carpet and herald a great health data giveaway.

Notably, a question was asked in the other place on 18 June about this very issue, focusing on our future trading relationship with the United States of America. It followed President Trump's recent state visit, and I note, without prejudice, that the response of the Secretary of State for Health and Social Care did not offer the questioner the comfort sought at that time. The Minister stated that,

“the NHS is not on the table in trade talks. We now have that assurance from the Americans. NHS data must always be held securely, with the appropriate and proper strong privacy and cyber-security protections”.—[*Official Report*, Commons, 18/6/19; col.114.]

All well and good, you might think, but in practice health data is not owned by the NHS per se and is not, as a matter of interest, subject to the control of the

Secretary of State for Health and Social Care in any meaningful sense—at least, not where future trade negotiations are concerned.

The adequacy of the USA's data protection provisions, which make it possible for us to share data with American companies, is currently determined by the European Union and covered by the EU-US Privacy Shield, which has been criticised for, among other things, data protection deficiencies, concerns about surveillance and, more recently, the lack of protection it affords where data is transferred for commercial purposes. Notably, however, under Schedule 1, Chapter 5 of the EU exit regulations, passed in this place back in February, the Secretary of State for the Department for Digital, Culture, Media and Sport will have sole authority to define what data is and is not on the table in international trade deals which the UK might enter into in the event that Brexit goes ahead, including patients' data.

More precisely, the Minister will be able to specify, as the noble Baroness, Lady Brinton, has already stated, the adequacy of a third country; a territory or one or more sectors within a third country; an international organisation; or a description of such a country, territory, sector or organisation. As such, he or she will be empowered, Henry VIII-fashion, to make or break the digital elements of future trade agreements that we might agree or acquiesce to regarding data controlled by our NHS. I want to make plain my concern. Any exercise of these new powers before a comprehensive public engagement effort is undertaken and an explicit and meaningful commitment is made to radical transparency could result in mass opt-outs on the part of the general public and do irreparable damage to patient care, as well as to our vital life science and technology industries.

Happily, the same section of the regulations affords the same Secretary of State the opportunity to rule out or take off the table the data controlled by our publicly funded and accountable health sector globally, until such time as those measures are put in place. Will the Minister therefore commit to such a protection in the interest of building and maintaining public trust in the Government's otherwise welcome strategy: namely, to maximise the value of healthcare data while ensuring a fair distribution of associated benefits?

In conclusion, can the Minister comment on the Government's appetite to blaze a trail in data protection for NHS patients, at the same time as championing our much-heralded global and entrepreneurial future? A new Prime Minister could lead by way of international example and develop a new, dedicated health and care privacy shield so that safeguarding individuals is approached as the flip-side of a coin which proactively and proudly promotes some of UK plc's best future industries.

12.41 pm

Lord Lansley (Con): My Lords, I am pleased to follow the noble Lord, Lord Freyberg. He said that the data we give as patients to the NHS is owned by the NHS; I remember that when I first became Secretary of State one of the many questions I asked was: “Who owns the data that patients give to the NHS?”. Many of the answers that I got followed the same pattern.

[LORD LANSLEY]

There was discussion of the processes by which it was managed but I kept asking, “Who owns it?”. Inevitably, as with all these processes, it ended up with: “Well, you do, Secretary of State”. That was very often how it worked, I am afraid. One of the reasons why I continue to believe that the Health and Social Care Act 2012 made a big and substantial difference is because for the NHS, the Act created its independence to a much greater extent than used to be the case. The NHS owns itself rather than constantly, in every respect, being owned and controlled by the Government. That independence for the NHS is really important.

I should declare an interest. Your Lordships will know that I have pursued health matters in both Houses for a very long time, but I declare an interest as a patient of the NHS, which I have been repeatedly in the last two years. If there is anybody who has a reason to express gratitude to the NHS, I have that responsibility thanks to what it has done for me. I understand what “free at the point of use” means; I would be a bankrupt person if I was paying for everything that I have received from the NHS over the last two years. That incites envy on the part of people from other countries, including—I would say especially—my friends in America, among whom it incites a dramatic sense of envy. It is depressing how different the political debate concerning health is in the United States from that which applies here. The idea that President Obama was so heavily resisted, and by so many, in trying to pursue more equal access to healthcare in America is utterly incredible to us in this country. How and why did that happen?

There is a dramatic difference between the way in which the American political and commercial world views health and the way we view it here. That is why I am grateful to the noble Lord, Lord Brooke of Alverthorpe, for securing this debate now. It is a useful moment to put a few things on the table. When we put things on the table, it is to make clear where we start from. As the noble Lord said, were we to enter a trade negotiation with the United States now, we would not have quite the same negotiating objectives as those published by the US trade representative—but we should.

I will not repeat what my noble friend Lady Fairhead said, because she said it better than I could and covered a lot of important ground. The noble Lord, Lord Desai, brought admirable clarity to the way we think about these issues. Let me rapidly establish some propositions.

The negotiations on TTIP demonstrated that we can and should exclude foreign companies from health services that receive public funding or state support. That was in the EU negotiating mandate for TTIP and clearly has to be reproduced in any negotiating mandate we have for a US trade relationship. It was why Cecilia Malmström said in a letter to Unite the Union, back in 2016:

“TTIP poses no risk whatsoever to public services in the EU, including the NHS; nothing in TTIP would affect how the NHS in the UK operates at the moment; and nothing in TTIP would prevent a government from reversing policy as regards the involvement of private operators in the NHS”.

If that is reproduced in any future negotiations with the United States, it will provide ample reassurance. I say to the noble Baroness, Lady Brinton, that there is

nothing to stop us reproducing what we have had in the past in our public contract regulations. The point is that we just have to do it. That is straightforward and I see no grounds for us not doing so.

There is nothing in the General Agreement on Trade in Services under the WTO that requires us to introduce healthcare services. They are excluded under the GATS. The Agreement on Government Procurement, which we debated during the Trade Bill, also does not bring healthcare into its coverage. From all of that, the protections and limitations are clear. Frankly, in any trade negotiation, whatever the United States says in an ideological sense about everything being on the table, it does not expect any of that to be available to them for negotiating purposes.

We know precisely what President Trump thinks about trade with the United Kingdom. He looks at our roads and sees German cars, when he wants to see American cars. He knows that we have a dramatic deficit on trade in agricultural products and that they come from Europe, because of the nature of the protectionist regime he sees in Europe, and he wants them to come from America. I am not going to get into a debate about cars and agriculture. It is not about the provision of healthcare services. If a hospital corporation in America wants to provide operations for NHS patients, it can do so through a UK company, as some presently do.

Ironically, American companies such as Humana, Aetna and Optum—which is a subsidiary of UnitedHealth Group—have provided services in the United Kingdom. They did so under the framework of external support for commissioning, which was established by the Labour Government in 2006-07. Again ironically, during the passage of the subsequent 2012 Act, Humana said it was going to withdraw from providing services to the NHS in the United Kingdom, because it did not see a future for private contractors in the NHS. That was during the passage of the 2012 legislation. There is nothing in the 2012 Act that requires competition. The Health Select Committee published a report, which was grievously misplaced, in that it said that competition is the operating principle of the NHS, under the Act. It is not; clinically led commissioning is the operating principle. Section 26 of the 2012 Act does not include a duty of competition; the driving principles for commissioners under the Act are the duties of integration and quality. The committee said Section 75 should be repealed. If it were, it would only have to be replaced by a new Section 75 which gave exactly the same power to make regulations, but the regulations do not have to require competition, competitive tendering and the like.

Where are the Americans going to look for something? We have to be very careful, because they really want to get American medicines and medical devices available through the NHS without the Government interfering in the pricing structure. It is not just here; it is right across the world. They see that 50% of the expenditure on medicines takes place in America yet they are only one-third of the international medicines market. There is a disparity in what they pay relative to large, single-payer systems across the globe, of which we are one, and they want to stop that. They want us to pay more, in

the erroneous belief that in consequence they will pay less. In reality, they pay more because they have a system where their payers cannot control prices through the exercise of their purchasing abilities. The market system in America is open to very high prices, because of the third-party payment issue. The Americans are pursuing this, and we have to resist it. We have to resist investor-state dispute settlement applying to our regulations for pharmaceutical and medical device pricing. We have to make sure that, through our pharmaceutical price regulation system—or, as I would wish it to progress, something a little more transparent—we have a value-based price for the medicines and devices that we buy. None the less, we should allow the purchasing capacity of the NHS to be deployed effectively for the price that we want, and not give the United States, through any trade agreement, the ability to put investors in front of a tribunal to stop that happening. We must retain the right to control our medical pricing system.

12.51 pm

Baroness Pitkeathley (Lab): My Lords, I am always grateful for an opportunity to speak about the NHS, so I am particularly grateful to my noble friend. I am the first to admit that my commitment to the NHS is emotional or perhaps, as my noble friend said, nostalgic or romantic. I owe my life to it and never cease to be grateful, as is the noble Lord, Lord Lansley, for all the skill and support which saved my life when I had almost no chance of survival. Any suggestion of a threat to the NHS sees me running to its defence.

I am, of course, not blind to the fact that the private sector already plays a significant role in healthcare provision and that this was boosted by the 2012 Act. However, many who are trying to work around those reforms are discovering that it is co-operation, not competition, that our NHS needs. I shall return to that theme. Aside from emotion, I have practical reasons to resist any US-style inroads into our NHS which might follow Brexit. The US system simply does not work. It costs more, as we have heard, and the health outcomes are worse. If we care about the health of our society, why on earth would we want to go down that route instead of the European one of investing more in prevention and support services?

Is it not of sufficient concern that life expectancy in the United Kingdom is falling—a statement I never expected to make in your Lordships House? In 1920, men expected to live to 55 and women to 59. Later interventions, particularly the setting up of the NHS, meant that by 2015 that expectation had reached 79.2 years for males and 82.9 years for females. Of course, an ageing population brings its own problems but let us rejoice in that amazing achievement. However, the graph, which had been rising for decades, has flattened out and started to decline. The elderly, the poor and the newborn are worst affected. Life expectancy for those aged over 65 has dropped by more than six months and we have to ask why. Professor Dorling, head of the social geography department at Oxford says:

“Our faltering life expectancy rates show we have now got the worst trend in health anywhere in western Europe since the second world war”.

He also says that this decline can be linked to funding cuts, especially to social care. Professor Dorling and his colleague Lucinda Haim from the London School of Hygiene & Tropical Medicine argue that life expectancy started to decline in Britain as a result of the austerity measures imposed by the coalition Government in 2010. These cuts, which removed more than £30 billion from welfare payments, housing subsidies and social services, were some of the most severe made by any nation after the financial crisis.

The cuts had a cumulative effect on health because they triggered dramatic reductions in social care, meals on wheels, transport, health visitors and district nursing services. Moreover, community and voluntary services, which have always been so important in the care of the elderly and isolated, suffered similar reductions. If no one is visiting a lonely, isolated older person, no one notices that they have stopped eating or are having trouble moving about. They fall over. They are finally discovered and admitted to hospital, where they are given more serious interventions than would have been necessary if the care services had been available earlier. Then there is difficulty in discharging them because social care services are not available—even Jeremy Hunt has admitted that cuts in social services imposed by his Government went too far—or are inadequate, leading to another admission to hospital and the whole sorry cycle starts all over again, inevitably leading to shorter lives.

In addition, many of the services that promote longer and healthier lives, many provided by the charitable sector, have been curtailed. Smoking cessation classes, exercise groups and help with addiction are all now harder to access in most areas. The latest news about obesity being a major risk for certain types of cancer means that the reduction in the number of organisations that help and advise on weight loss must also be a concern.

Infant mortality is another sorry story. This reached an all-time low in 2014, since when the ONS reports that the rate has increased every year. The reasons include fewer midwives and health visitors, overstretched ambulance services and cuts to schemes such as Sure Start, which had a dramatically beneficial effect on the physical and mental health of mothers and babies. I would like the Minister's assurance that the Government take this decline in life expectancy and the rise in infant mortality seriously and have a strategy for addressing them.

What has this to do with the NHS being included in trade talks? Surely, my grave concern about the need for more resources for health and social care means that I should welcome any possibility of increasing investment in our cash-strapped services. However, no US firm will be interested in providing the sort of social and preventive services I have referred to. There is just not enough money in them and their benefits take too long to accrue. In the US, social care budgets are low, as are taxes; most services are provided privately and the result is a soaring mortality rate. This includes spiralling rates of drug overdose, death and suicide as well as poor services for the young and the old. Is this a pattern we really want to emulate?

If we need an example of how foreign investment works or does not work in our system, we have only to look at the private care home sector. Four Seasons

[BARONESS PITKEATHLEY]

Health Care recently going into administration is only the latest example of how the debt-driven business models of companies in the care sector result in thousands of vulnerable people being made even more vulnerable by these failures. Some 140 homes closed last year and thousands more are at risk of failure.

No, it is not those things that drive the US trade people to want a stake in the health service. It is drug pricing that drives the trade agenda, as others have said. “Socialised” medicine and healthcare systems, as Donald Trump calls them, mean what he calls “unreasonably low prices” for drugs and not enough profit.

What we need in our NHS, which I am proud to call socialised, is not competition but co-operation, as I said, across health and social care, including housing, education and, of course, pensions. Our planning must be to promote this co-operation, not to provide a marketplace for drugs, data or any other services which can be cherry picked by those US companies waiting in the wings to make a quick buck.

While I am on my feet, I suppose I must once again ask the Green Paper question. Where is it? How much priority are the Government giving it? I have lost track of how many times I have asked the Government to be bold and honest about social care. Have they, for example, taken note of the new report out today from the committee chaired by the noble Lord, Lord Forsyth? It says:

“After decades of reviews and failed reforms, it is not clear how another Green Paper is going to make progress on addressing the challenges in social care funding ... Government action, rather than further consultation, is required”.

I ask again about the NHS and future trade deals. Will the Government be as bold and honest as necessary and commit to investing in social and health care policies that are better for health and longer life than any American policy or company could ever deliver?

1 pm

Lord Purvis of Tweed (LD): My Lords, we are grateful to the noble Lord, Lord Brooke, for bringing this debate. I agree entirely with the final points made by the noble Baroness, Lady Pitkeathley. As the son of an NHS ambulance driver who worked for the NHS for 30 years, I know intimately how it touches so many people across the country, not just its patients but its very large workforce. This has not entirely been touched on in the debate, but part of the negotiating mandate of the US is looking for greater access to the labour market of the NHS, so those who work for the NHS also have a consideration when it comes to negotiation of the trade agreements.

In some respects, the noble Lord, Lord Desai, was right to say that we need not repeat that we all consider the NHS a cherished aspect. The point made by the noble Lord, Lord Brooke, which I share entirely, is that because it is cherished it is inevitably a greater part of the political process, and therefore threats or unrealistic promises to the NHS have been used repeatedly on constitutional aspects over recent years. Now that trade has become part of the constitutional process with Brexit, it is right that we debate it in Parliament, and I am grateful to the noble Lord for giving us the opportunity to do so.

I was very pleased to see the noble Baroness, Lady Fairhead, in this debate. I very much enjoyed our processes during the Trade Bill. She is missed as a Minister with that portfolio. I mean no disrespect to the noble Earl, Lord Courtown—perhaps *Hansard* might record that he is nodding in agreement that she is missed in the department. I wonder if he might be able to indicate when we will have a Trade Promotion Minister for the UK. That is a very important role, and we surely cannot just wait until the Conservative leadership election is resolved for it to be filled.

On the point about the NHS being used politically, I saw that in the Scottish referendum when the SNP and the yes campaign said there were 48 hours before the vote to save the NHS in Scotland, and we have seen unrealistic promises on the side of a bus. The fact that it is being used politically means that, as the noble Baroness, Lady Fairhead, said, we have to develop further our consideration when it comes to some of the trade negotiations.

In that regard, we live in a perilous world in terms of the rules-based system. I think we have sometimes taken for granted, when we enter into agreements and treaties, that we expect all parties to adhere to them. We have seen some blurring of the lines on the Brexit consideration, where commitments that we thought we had entered into in good faith, such as financial commitments to the EU, could well be seen to be put on a reduced status, while China and the USA are moving towards a much more transactional approach. If the UK fundamentally supports the rules-based system, then any trade commitment in a treaty that we enter into also has to be resolute, consistent and robust. That is why, during our consideration of the Trade Bill, this House made amendments to the Bill to strengthen the role of Parliament when it comes to these international obligations.

Why is that necessary? It is because our single biggest trading partner outside the EU, the US, is not resolute and consistent when it comes to seeking opportunities for greater access to the NHS. We saw on a regular basis how unreliable President Trump is. Even on his state visit, he said two diametrically opposed things on two consecutive days, which of course rendered both commitments useless. One was that the NHS would be on the table, and the other was that it would not be. That is his approach; he deliberately wishes there to be uncertainty. The real tragedy is that he directs this towards his allies as much as he does to his trade adversaries, such as making up excuses on threats to US defence to put tariffs on the UK and EU aluminium and steel industry. We cannot rely on the US being as consistent as we need to be to protect our health service.

The House did the country a service by amending the Trade Bill. Clause 7(1) now has new text saying that the text of any potential agreement of a mandate has to be ratified by a resolution of both Houses. That means that there is a parliamentary guarantee that the reassurances, which have been repeated in good faith by the noble Baroness, Lady Fairhead, and Ministers, will then be tested and approved by Parliament and will then be part of an irreversible mandate for trade negotiations. That is particularly important for America because, as I referred to during the passage of the

Trade Bill, I looked at the questionnaire that the Department for International Trade had put together for a future trade agreement with the US. There were no accompanying documents nor any suggested restrictions as to its scope. The NHS was not mentioned; I went online and looked up the NHS, but there was no feedback or any necessary process. We have had some Ministerial Statements but no clear position from Parliament. So the parliamentary lock is necessary, and I would be grateful if the Minister could state the Government's position with regard to the amendments to the Trade Bill. Will the Government seek to reverse them, if and when the Bill ever sees the light of day in the other place?

That is important also because we currently have these kinds of protections through the European Parliament. My noble friend Lady Brinton gave a crystal clear outline of the way that the UK is protected under the aegis of our membership of the EU. It is also important because Congress ultimately has the lock on the US Government. When I analysed the negotiating mandate, I counted seven areas—including the provision of health services, those who work for it, those who have data from it and those who sell to it—that the US wants to open up. In addition, it wants changes to dispute resolution, as the noble Lord, Lord Lansley, indicated in a very good and measured contribution to this debate, which raises concerns about limiting our ability to reduce existing private provision. The Americans also want the agreement to cover all the UK but to restrict themselves to federal provision rather than covering US states.

It is interesting to note that the mandate is identical to the one that has been published for any future trade agreement with the EU. So if we diminish our protections while the EU is strengthening those, we will be in the invidious position that there will be a triangulating negotiating position whereby the US will see us as the weak link to the EU. We cannot afford to put ourselves in that position, and I hope there is emerging cross-party consensus for this. We have heard references not to the mixed funding provision, as the noble Lord, Lord Lansley, referred to, but to mixed public/private commissioning and funding in England for the NHS of, according to the House of Lords Library, £8.8 billion or 7.3% of its budget.

I stress in my last couple of minutes that we have had a debate almost entirely about the NHS in England, but there are major differences with the NHS in Scotland. Scotland has never had an NHS statutorily combined with that in England. It has separate founding legislation and separate processes altogether, but a trade agreement is a UK treaty. The issue of how a UK treaty will then cover health provisions reflecting a health service that has been founded and continues to be distinct from England's means that the other element of the Trade Bill amendments—consultation of the devolved Administrations on the negotiating mandate—is of critical importance.

During the Liberal-Labour coalition in Scotland, Scotland did not develop the Labour reforms to expand the NHS internal market and remove trusts. The 2012 Act clearly does not apply to Scotland and, when it comes to data, as the noble Lord, Lord Freyberg, has

said, we have a far more robust situation for the protection of NHS data in Scotland. Scottish data is a matter of pride, because it is unique in the world—consistent for 70 years and combining patient data and public health information. All these things are of critical importance: that the amendments to the Trade Bill are not reversed and that we continue to have these debates to ensure that we do not sleepwalk into a situation where we are undermining our NHS.

Ultimately, as the noble Baroness, Lady Brinton, has indicated, it comes back to the EU. There is a simple solution to all of this which is fairly straightforward: that we do not leave the European Union. We can now utilise the extremely large number of Liberal Democrat MEPs in the European Parliament to make sure that any future trade agreements with the EU also protect British interests.

1.10 pm

Baroness Thornton (Lab): I so enjoy these flashing lights on the clock. I crave the indulgence of the House for a moment before I respond to this debate, as I need to take the opportunity to correct something I said in a debate on 6 June when the House was discussing the treatment of those with learning disabilities at Whorlton Hall. At col. 219, I said that Mr Simon Stevens had in the past worked for Universal Health Services, the owners of Whorlton Hall. This was not correct. Mr Stevens in fact worked for a completely different company, UnitedHealth Group, as medicare CEO. I took my information from a newspaper article; that will teach me to not believe anything I read in a newspaper, as I thought I already knew. I apologise to Mr Stevens for my mistake.

I refer noble Lords to my entry in the register of interests. I thank my noble friend for initiating this very important debate and all noble Lords who have participated in it. I also thank the Library, the British Medical Association, the NHS Confederation, the Trade Justice Movement, UNISON and others for their briefing. I am sad that the noble Baroness the Minister is not with us today, but I am sure that the noble Earl, Lord Courtown, will do his best to make a health-related trade speech and answer the questions which have been posed in this debate.

As noble Lords have said, this debate has been made even more important since the recent visit of Donald Trump, and I was reminded when preparing for this speech what a great job this House did—as the noble Baroness, Lady Brinton, has said—in amending the then Healthcare (International Arrangements) Bill to decrease its scope to the European Union and Switzerland only. I have been reflecting on that Bill and how dangerous it would have been to our National Health Service in the trade negotiations that are coming down the track. She is absolutely correct: that Bill was paving legislation which would have put our healthcare in great jeopardy during trade negotiations. It is important to remind ourselves that this was brought forward by this Government. We certainly feel that we need to be at least vigilant in what happens next.

Managing the flow of goods and services across borders in a way that promotes economic growth while protecting—and ideally enhancing—public goods,

[BARONESS THORNTON]

including health, is of vital importance in an increasingly interconnected world. If the final Brexit deal involves the UK leaving the European single market and customs union, we will need to negotiate a significant number of trade agreements to maintain favourable access to global markets and limit the economic cost of Brexit. The noble Lord, Lord Purvis, is quite right. Like him, I look forward to the amended Trade Bill reaching the statute book and the locks that it contains.

As the UK Government look to develop their independent international trade policy beyond Europe, it will be critical to balance the potential economic benefits of trade against the protection of public health and safety. It is quite clear that the US will drive a hard bargain in any future negotiation with the UK. That should come as no surprise to us. The truth is that only the European Union, and perhaps China, has the economic heft to negotiate on near-level terms with the Americans, and even it struggles. The US objectives for its negotiation with the UK were published in February—with the caveat that they were largely produced for a domestic American audience, shorn of any notion of compromise—and they were strikingly ambitious in their demands. For example, alongside normal talk of tariff and quota removal, the UK must jettison food hygiene rules that deal with pork, chicken and dairy; the rules stipulating products that qualify for tariff-free treatment under the agreements must specifically incentivise production on US territory; and the agreement should include mechanisms allowing the US to take appropriate action if the UK negotiates an agreement with a non-market economy. We should also look at pharmaceuticals and equipment, as the noble Lord, Lord Lansley, mentioned. He is quite right to warn us about the need for caution here, because the US objectives seek provision on intellectual property rights that reflect current US legal standards, which are generally more favourable to rights holders than the European standard.

What worries us is whether, if we crash out of the European Union, it is possible that that could cajole Conservative MPs and the Government into holding their noses and signing on Trump's dotted line after no-deal Brexit, and that the subsequent upheaval and economic uncertainty of no deal would see the UK grasping for anything that looks like an economic lifeline. The noble Lord, Lord Purvis, was quite right to give examples of the American President not being trusted. Look what happened with Mexico: even though it recently agreed to revamp its existing trade agreement with the United States and Canada, the President has now threatened to levy a 5% tariff on all Mexican exports into the US unless illegal immigration comes to a halt. If no-deal Brexit happens, and a lopsided US-UK free trade agreement is concluded, we can be pretty sure that the President will immediately come back asking for more.

I will address two issues that have been mentioned. First, as we know, many international trade agreements include investor protection on dispute resolution mechanisms. As noble Lords will be aware, these mechanisms allow foreign private companies to sue national Governments for compensation if they believe that their investments have been negatively impacted by public policy decisions. These legal challenges take

place outside the normal court system and judgments generally cannot be appealed. We believe that there is a significant risk that these mechanisms could have a particularly negative impact on health and the development of new models of health and care.

There is a precedent for this: a Dutch private healthcare insurance firm sued the Slovakian Government under an investor protection agreement. The Slovakian Government lost the case and was ordered to pay €22 million in damages to the company. More recently, the tobacco company Philip Morris used a dispute resolution mechanism to sue the Governments of Australia and Uruguay. Those were not successful, but they were very expensive. That alone can have a chilling effect on policy development in countries which are not as well off and sophisticated as we are.

Despite the reassurances that the Government have already given on this, we need it on the record yet again that we will not enter into these agreements. The noble Baroness, Lady Brinton, is quite right: let us put down the existing European rules that have protected us and make sure that they are on our statute books. I say to my noble friend Lord Desai that that is not the least bit romantic: it is the hard-headed thing we need to do.

My second point concerns the issues raised by the noble Lord, Lord Freyberg, on the use and potential value of NHS data. Noble Lords will be aware that comprehensive longitudinal datasets controlled by the NHS represent a significant opportunity. I absolutely accept that the Government are, as it were, on the case. They know that there needs to be action, and I am intensely interested and concerned that Her Majesty's Government move to set up an appropriate regime to ensure that the exploitation of NHS data benefits the NHS.

However, the question in this debate is how to ensure these measures are in place to protect healthcare data assets in the context of a non-EEA data protection regime post Brexit. How do we prevent large corporates extracting value unfairly from the NHS? Those are the questions we need to address.

To protect our NHS, we are calling for a hard carve-out on the provision of healthcare services, particularly the NHS, in any future trade agreements. That is the assurance I seek from the Government today. The Minister has been asked many fundamental questions here on how to protect our NHS in the future, and I look forward to his answers.

1.20 pm

The Earl of Courtown (Con): My Lords, I am grateful to the noble Lord, Lord Brooke of Alverthorpe, for bringing this topic to the House for debate and for the insightful contributions by Peers from all parts of the House.

We are extremely fortunate to have heard many well-articulated and expert contributions today from noble Lords who have considerable interest in and experience of not only trade issues but the UK's public services, including the NHS. In particular, I thank my noble friend Lord Lansley for his contribution, particularly over the last two years, during which he has had treatment from the NHS. We are all very pleased that

he is here to make that speech. My noble friend also set out the history of the NHS over the past 15 years, which showed how all Governments over that period have contributed to the NHS as it is today.

A number of issues have been raised which once again showed the central role that the NHS plays at the heart of our communities and the strength of feeling we have for this great institution. The noble Baroness, Lady Pitkeathley, elucidated the importance of the NHS and mentioned several different areas; I will answer some of the points she raised later. On the social care issue, she drew attention to the report of my noble friend Lord Forsyth, which of course the Government will respond to in due course.

I point out that the Government have been consistently clear about their commitment to the guiding principles of the NHS, and I confirm to all noble Lords that it is universal and free at the point of need. Our position is definitive: the NHS is not, and never will be, for sale to the private sector, whether overseas or domestic. The Government will ensure that no trade agreements will ever be able to alter these fundamental facts. As my right honourable friend the Prime Minister noted in January, the NHS,

“is one of this country’s greatest institutions. An institution that is consistently what makes the people of this country most proud to be British”.

That is why protecting the UK’s right to regulate in the public interest and to protect public services, including the NHS, is of the utmost importance. The Government will continue to ensure that decisions on how to run public services are made by UK Governments, including the devolved Administrations, and not by our trade partners.

Free trade agreements were mentioned by a number of noble Lords—in fact, all of them. No trade agreement has ever affected our ability to keep public services public, and trade agreements do not force us to open up the NHS to private providers. I can therefore reassure noble Lords on this point. We have always protected our right to choose how we deliver public services in trade agreements, and we will continue to do so. That is not simply the UK’s position but a principle which goes to the heart of trade in services under World Trade Organization rules. For example, the General Agreement on the Trade in Services specifically exempts services which are,

“supplied in the exercise of governmental authority”.

On top of this, the delivery of public services is safeguarded in the trade in services aspects of all free trade agreements the UK is party to. In the EU’s free trade agreements, the UK’s public services are protected by specific exceptions and reservations. As we leave the EU, the UK will continue to ensure that public services—including the NHS—are protected in all trade agreements it is party to, whether transitioned from an EU context or as a result of new negotiations.

The noble Baroness, Lady Brinton, my noble friend Lord Lansley and other noble Lords drew attention to the EU public procurement directive. As noble Lords will be aware, the directive was transposed into UK law many years ago now. It applies to the NHS where it carries out relevant public procurement. Her Majesty’s Government are committed to ensuring that

the NHS can operate within a fair and rational framework for procurement as well as commissioning services. This will remain the case under all EU exit scenarios. If I can add anything more on that issue for the noble Baroness, I will write to her.

Baroness Brinton: The Minister says that the law was enacted in the UK but only in the sense that we accepted it at the time. I understand from the Government’s insistence on the legislation that needs to go through should Brexit occur that there are various things we need to re-enact specifically in preparation for the date of departure. I had understood that the public procurement directive was one of those. Can the Minister confirm that absolutely? I did not quite infer from his comments that he meant that it was safe now; I thought he was referring to Parliament’s original acceptance of the directive.

The Earl of Courtown: My Lords, perhaps I will be able to get a little further information on this while I continue with my speech, but if not, I will confirm one way or another in writing.

These protections are an integral part of the United Kingdom’s future independent trade policy, rather than being at odds with it. Free trade agreements can enable increased trade and investment, secure access for UK exporters to the key markets of today and the future, give consumers access to a greater range of products at lower prices, and make the UK more innovative, competitive and prosperous.

These benefits also matter for the public services we want to protect. Trade is vital for the NHS, which relies heavily on vital goods and services that come wholly, or in part, from suppliers based overseas. Trade enables the NHS to buy the best possible medicines and medical devices that industry—here and overseas—has to offer. That is in the best interests of NHS patients.

Trade agreements do not prevent Governments regulating public services effectively or require Governments to privatise any public services. The UK Government are committed to maintaining our high standards for consumers, workers and the environment, and to protecting our public services and access to affordable medicines, in any future trade agreements we conclude. Protecting public services, including the NHS, is of the utmost importance for the United Kingdom. The Government remain completely committed to ensuring that the NHS continues to provide excellent care that is, I repeat, free at the point of need for generations to come.

The noble Lord, Lord Brooke of Alverthorpe, addressed the importance of a US-UK trade deal. It is too soon to say exactly what would be covered in a future such deal. However, negotiating an ambitious free trade agreement with the US that maintains our high standards for businesses, workers and consumers is our priority.

My noble friend Lord Lansley also mentioned this area, and those standards and our principles will be crucial to any future deal. That includes protecting the NHS and our right to regulate public services. As my right honourable friend the Health Secretary recently commented on social media:

“The NHS isn’t on the table in trade talks—and never will be”.

[THE EARL OF COURTOWN]

Several noble Lords mentioned medical pricing and the United States. As I have made clear, the sustainability of the NHS is an absolute priority for the Government. As noble Lords mentioned, we celebrated its 70th birthday last year; I want it to celebrate many more birthdays for generations to come. We are very proud of the NHS and the internationally recognised way in which we assess the price of new medicines on the clinical benefit that they provide to patients.

Her Majesty's Government recently agreed a deal with the pharmaceutical industry to ensure that medicines remain affordable for the NHS, while supporting a positive environment for the life sciences industry. That is why we are clear that, in any negotiations on future trade agreements, we could not agree to any proposals on medicine pricing or access that would put NHS finances at risk or reduce clinician and patient choice. This does not prevent a free trade agreement with the United States representing an opportunity to increase exports to the world's largest market for the UK's world-class life sciences sector. Helping to stimulate investment and innovation in and research into new medicines and technology is of prime importance.

As I have made clear, trade agreements do not force us to open the NHS up to private providers. Decisions about how to operate our public services are for the UK to make. Under existing competition rules, the NHS in England does not discriminate against foreign firms wishing to bid for clinical contracts, provided that they meet UK requirements and standards and are approved by UK regulators.

Lord Desai: My Lords, the noble Earl has twice said that there is no intention to open the NHS up to private providers. The NHS is open to private providers and has been since its inception because general practitioners are private providers. Can he clarify precisely what he is ruling out?

The Earl of Courtown: My Lords, the noble Lord, Lord Desai, is quite right. I speak in relation to any future trade deal and how we protect the NHS. Of course, the NHS is open to private companies in various ways and they serve it in many useful matters. I was looking at where we are and the future protection that we need for the NHS in any trade deals we enter into.

As I said to the noble Lord, Lord Desai, under existing competition rules, the NHS in England does not discriminate against foreign firms wishing to bid for clinical contracts—I know that I am repeating myself but this is important—provided that they meet UK requirements and standards and are approved by UK regulators. In practice, this means that foreign companies are already eligible to bid for NHS clinical contracts in England, regardless of whether the UK has a trade deal in place with a given country. However, few do so as they cannot readily meet our requirements. Only a small amount of NHS work is carried out in the private sector. Trade deals will not force the NHS to provide preferential access to foreign companies.

The noble Lord, Lord Freyberg, mentioned data, as did the noble Lords, Lord Purvis and Lord Brooke of Alverthorpe, the noble Baroness, Lady Thornton,

and my noble friend Lady Fairhead. The UK has committed to maintaining a high level of data protection standards, which are set out in the Data Protection Act 2018. The UK recognises the importance of data protection to ensure that data continues to flow uninterrupted and to enable trading partners to build trust through the transparent treatment of personal data. Patient information will never be sold for marketing or insurance purposes unless the patient has explicitly consented. The Government's principles governing data-sharing agreements entered into by the NHS, published in draft in December 2018, require that data may be assessed by third parties only where there is an explicit aim to improve the health and care of patients in the UK and a fair share of benefits from any agreement flow back to the NHS.

The noble Baroness, Lady Thornton, also mentioned data protection. The Government take seriously the use and sharing of NHS data. I reiterate what my right honourable friend the Secretary of State for Health and Social Care stated recently:

"NHS data must always be held securely, with the appropriate and proper strong privacy and cyber-security protections".—[*Official Report*, Commons, 18/6/19; col. 114.]

Both the Department for Health and Social Care and the Department for Digital, Culture, Media and Sport are aware of the sensitivity of patient data; I can confirm that both departments will work closely together to ensure that trade negotiations will not undermine the safeguards we have in place around healthcare data that enable the public to trust in what it is used for, while realising its value and ensuring the fair distribution of associated benefits.

The noble Lord, Lord Brooke, the noble Baroness, Lady Thornton, and my noble friends Lady Fairhead and Lord Lansley mentioned ISDSs, which do not and cannot force the privatisation of public services. To be absolutely clear: ISDSs will not oblige the Government to open the NHS up to further competition and overseas companies will not be able to take legal action to force us to do so. The NHS will continue to be free at the point of delivery and of use for everyone who needs it. The protections here are in law.

The noble Lord, Lord Brooke, looked at the preparations for a UK-US trade deal and asked when we will publish our objectives. We are well prepared for those negotiations; there have already been four or five initial meetings. As for domestic preparation, we held a 14-week consultation on our approach to a US trade deal, to which we had nearly 160,000 responses, which we have carefully considered; we will publish a summary of them shortly. We will publish our negotiation objectives before negotiations begin and ensure that Parliament has a chance to consider them. We are laying the groundwork for an FTA through our UK-US Trade and Investment Working Group. As I said, it has met five times and will meet again before the Summer Recess.

Lord Purvis of Tweed: The Minister said that he would present the conclusions of the consultation plus the objectives to inform Parliament. This House amended the Trade Bill to state that that is not sufficient. If he could address that point in his last few minutes, I would be grateful.

The Earl of Courtown: The noble Lord mentions the Trade Bill, as he did in his speech. The Government are still considering the amendments that this House made to the Bill; we await whatever happens to the Bill in due course. He also mentioned the absence of a Trade Minister, which I of course regret. In due course, an announcement will be made by No. 10.

I thank all noble Lords for this informed debate. The range of voices that we have heard from across the House demonstrates the UK's passion for protecting the NHS. Her Majesty's Government share this passion. There will be some questions that I have not given full and detailed answers to; I will write to noble Lords on those issues. Our position is definitive: the NHS is not for sale and the Government will ensure that no trade agreement changes that.

1.39 pm

Lord Brooke of Alverthorpe: My Lords, I am grateful to all noble Lords who participated in the debate; it has been very helpful indeed. It needed airing and there is further work to be done. I will need to read in detail the noble Earl's response in *Hansard* to see precisely what assurances he gave or what he was instructed to read.

There is a good deal of agreement across the Chamber, which is very comforting. None of us is in any disagreement about the NHS continuing to be free at the point of delivery. That is assured; any Minister will assure us on that and we will agree. That picks up on my noble friend Lord Desai's point about what will be on the table going into a negotiation. We may say that we do not want the NHS on the table. Some of us have asked for that; I am not quite sure whether the Minister has said that it will be on the table. In any event, the Americans, as parties to the negotiations, could still put it on the table, and the issues that they raise would have to be addressed. I am not anti-American—I hope that we get a good deal with the Americans and seek good trade deals around the world—but we have some basic principles to protect. Speakers from all sides identified a number of areas in which protection is needed. There was unanimity across the House that we do not wish to countenance reaching a deal that would force up the price of drugs in the NHS, which in turn would affect the NHS's performance overall.

I am grateful to the noble Lord, Lord Freyberg, for his expert opinion on our precise arrangements on, the interest of DCMS in and the need for protections for data. I gather that there are some differing views on our approach to how data should be handled. I am not sure whether my noble friend Lord Desai's view is that we should give it away for what we get back or seek to protect it. The one important thing—I stressed this point earlier—is that it is a very valuable commodity and is, in many respects, quite unique. A lot of people, not just in America but around the world, will have an interest in it. I hope that it will not be on the table; if it is, all efforts must be made to protect it and the benefits that accrue from it. The noble Earl, Lord Courtown, mentioned the “associated benefits”; I hope that they will be maintained primarily in the UK and that others elsewhere will not make a great profit out of them.

As the noble Baroness, Lady Brinton, my noble friend and others stated, fundamental to this is that we should seek, if we can, to incorporate the EU directive protection in our approach to trade negotiations. That is fairly fundamental; many of us would rest assured if we saw that.

I thank noble Lords for their contributions. I hope that we continue to have opportunities for full scrutiny of the Trade Bill that needs to come, particularly on this special aspect—it is so close to all our hearts—to ensure that, while change will always come, the best interests of the British public, not those of other countries, are at the heart of it. In particular, in answer to my noble friend Lord Desai, we must ensure that, during the course of the US trade deal negotiations, others do not gain benefits that we feel should not go to them unless we get an appropriate reward in return.

Motion agreed.

Supply and Appropriation (Main Estimates) (No. 3) Bill

First Reading

1.44 pm

The Bill was brought from the Commons, endorsed as a money Bill, and read a first time.

Work Capability Assessment

Statement

1.45 pm

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, I will now repeat a Statement made earlier in another place as an Answer to an Urgent Question. The Statement is as follows:

“Mr Speaker, the department holds the original commission and final report for all peer reviews of disability benefit claimants' deaths up to 2015. All these documents are kept for six years from the date of the final report. In October 2015, we moved from conducting peer reviews to internal process reviews. This change means we hold more information, including the original commission, all emails relating to the case, the final report and any recommendations resulting from the internal process review.

As the House may be aware, the Welfare Reform Act 2007 committed the Secretary of State to publish an independent report on the work capability assessment each year for the first five years of its operation. In 2013 and 2014, Dr Litchfield led the fourth and fifth independent reviews of the work capability assessment. The department fully co-operated with the reviews and shared all relevant information as requested. To assist the work capability assessment independent reviews and in response to a freedom of information request, we carried out a robust search to supply all necessary information to the reviewers. The record of the documents requested by or shared with the independent reviewers no longer exists, in line with the department's document retention policy.

[BARONESS BUSCOMBE]

We take the death of any disability benefits claimant very seriously and always conduct an investigation into the circumstances where we are informed that the claimant committed suicide. As the reviews contain extremely personal information, it would not be appropriate to declare which individual cases were shared with the reviewers on this occasion”.

1.47 pm

Baroness Sherlock (Lab): I thank the Minister for repeating that slightly opaque Answer. This is really serious. There have long been complaints about the WCA process from campaigners concerned about the impact on people—including, in some cases, their deaths—following assessments.

The DWP conducts peer reviews into serious outcomes and deaths associated with DWP activity. The independent statutory reviews the Minister mentioned were conducted by Paul Litchfield in 2013 and 2014. Disability News Service reported earlier this year that letters to Ministers from coroners, along with several peer reviews, were not given to Dr Litchfield’s team. The DWP will not confirm that, but DNS says that it then lodged a complaint with the Information Commissioner and that the summary of its discussions with the DWP shows that that information was not passed along to the review team.

In response to a letter from my honourable friend Debbie Abrahams, the DWP finally said that it has had a good look around the department and that despite,

“a robust and thorough search”,

it could not find any information about this, citing,

“the length of time since the reviews were carried out”,

and,

“factors such as document retention”.

It also implied, as the Minister did, that the review team did not ask for them. These were documents related to the circumstances of people’s deaths. The independent reviewers were investigating the WCA process, including its impacts on the clients. Either these documents were withheld from the reviewers or the DWP’s record keeping is so poor that the department does not know whether they were passed across. I regret that, given the level of anger and mistrust of the DWP out there as a result of repeated cuts and the profoundly dysfunctional nature of the benefit assessment system, this will inevitably fuel suspicions that there was something in those documents that the DWP did not want an independent reviewer to see.

Does the Minister accept that it is the department’s responsibility to ensure that an independent reviewer has any potentially relevant information? It is not their responsibility to work out what to ask for. If that is true, why did it not include all peer reviews and coroners’ letters?

Secondly, since trust is now so low, will the Government accede to the widespread calls for an independent inquiry into how assessments are carried out and the medical evidence of their impact on the health and well-being of claimants? Will she guarantee that all documents relating to deaths or serious and complex cases related to DWP activity will be shared with any

future independent reviewer? This is a matter of justice and it is the only way to restore trust in a deeply discredited system.

Baroness Buscombe: My Lords, I refute the allegation that this is a deeply discredited system. The Department for Work and Pensions takes the death of any claimant very seriously. Where it is made aware that a person has died and it is suggested that that is associated in any way with the department’s activity, a review will be undertaken to identify any lessons that can be learned. It is important to make it very clear that in a case of suicide, a mandatory internal assessment review is undertaken. All these reports will be kept for six years from the date of the final report.

In October 2015, we moved from peer reviews to an internal review process, which is what I meant to call it in the first place. That process means that we hold more information, including all emails relating to the case, the original commission, the final report and any recommendations resulting from the internal process review. That relates to the death of any individual who has been in receipt of any benefit—not necessarily just the work capability assessment but any benefit at all.

It is important to make the point that we retain that information for six years. Some of it is highly confidential. What we do not retain for more than one year is the day-to-day business on emails which is where requests come in and out about who is asking for what information. That is in line with normal practice. We retain that information for only one year. Complex issues are involved in the decision-making for this, however, and we examine those issues with great care, also taking into account letters from the coroners’ courts. Once again, the department takes the death of any claimant seriously and always conducts an investigation into the circumstances.

Baroness Brinton (LD): My Lords, despite what the Minister said, if all that information is available, why do families not get to see those reports? Take, for example, the Justice for Jodey Whiting campaign. She died in February 2017. She took her own life 15 days after her disability benefits were stopped for missing a work capability assessment, when she was already seriously ill. Her family have repeatedly asked for that review and have never had permission to see it. Three disabled members of staff at the DWP wrote a safeguarding report, which was magically lost in the system. I understand that that was also not passed to the investigators.

The DWP changes its story every time. In May 2018, it claimed that it had no record of the reports or whether it shared vital documents linking fitness to work with the death of benefit claimants. Most extraordinarily, it recently said that the independent reviewers did not ask for documents. How on earth can they ask for documents that they do not know exist? I echo the call for an inquiry, but I want to add another couple of questions.

The Minister’s department claims that it does not hold information on claimants who have lost their lives. On the issue of the length of time for which certain documents are kept, surely there must be a full review of all documents and for how long they are held. Either it is incompetence or, more alarmingly,

it is a cover-up. Will the Minister ensure that there is a proper, independent investigation specifically into those missing documents? Why were those documents hidden from the independent reviewer? It is just not good enough to say that they were not asked for, when the independent reviewers did not know about them. Finally, what scrutiny has the department given the private sector contractors, Maximus, Capita and Atos, carrying out the WCA and their record-keeping and passing on of information to assist the DWP when it gets requests from campaigners such as John Pring at Disability News Service, who has campaigned tirelessly for two years on this matter?

Baroness Buscombe: My Lords, I cannot respond to the specific case that the noble Baroness mentioned, but I will write to her. I can only repeat what I have already said. This is not a question of keeping information from individuals. As I said in the Statement, the reviews that we carry out—84 since 2015—contain extremely personal information. It would not be appropriate to declare which individual cases were shared with the reviewers on this occasion. We instituted a change in October 2015 when we moved from peer reviews to the internal review process to ensure that we can hold more information, including all emails relating to the case, the original commission, the final report and any recommendations resulting from the internal review process. In line with the department's document retention policy, any records of whether peer reviews and coroners' reports since 2010 were either requested by or shared with the independent reviewers of the work capability assessment do not exist. As I said, we keep the information for six years from the date of the final report in the case of the reports and active emails—the day-to-day business of the department—for only one year.

I stress, however, that we take this situation and this issue very seriously. I do not accept that the department has in any way sought to withhold information for any ulterior motive. The department works hard to do the right thing. If one looked across the private and public sectors, one would see that the period for which we hold information of this kind is absolutely in line with normal practice.

Baroness McIntosh of Pickering (Con): My Lords, will my noble friend clarify one issue? Are we making changes to the work capability assessment to support claimants?

Baroness Buscombe: I thank my noble friend for that question because this instance relates to the work capability assessment. As I said, we carry out an independent review of any case where there has been a death by suicide. Yes, we are working hard to reassess the work capability assessments to support claimants and we will integrate the services that deliver both PIP and the WCA from 2021. We are testing the feasibility of having one assessment for people who apply for PIP and universal credit at the same time and we will test how to build better relationships with universal credit customers awaiting an assessment or in the limited capability for work group by changing how conditionality is tailored. We also want to explore whether we can improve the mandatory reconsideration process to reduce the volume of cases going to appeal.

All of this of course goes towards doing everything we can to support claimants and reassure them through the process of obtaining support.

Mental Illness: Job Security and Inequality

Question for Short Debate

1.59 pm

Asked by **Lord Bird**

To ask Her Majesty's Government what assessment they have made of the role of job security and reducing inequality in tackling the prevalence of mental illness.

Lord Bird (CB): My Lords, it is good that we have a report from the UN rapporteur Mr Dainius Puras. I shall refer to it very briefly because it is part of the reason why I asked for this debate. Many of us are working on mental health, but Mr Puras alerts us to looking at it not simply as a thing in itself but as an expression of all sorts of other things. If you want to sort out somebody's mental health, you need to do things other than look at it simply as a medical condition.

Apparently 16%, or one in six, of people in the UK—I do not know whether this goes for other countries—will suffer some form of mental well-being issue or have mental health problems, acute anxiety or an inability to function in life at some time in their life. That is an incredible figure. We know that with the austerity cuts that have been hitting us since 2010 there is more evidence of people suffering from mental well-being problems. We need to address that, so all of us who are involved in the fight against poverty—it is related to poverty—are asking the Government about it. If one in six people is going to hit the mental health or mental well-being barrier, as a society we will have to up our interest, support and need to dismantle all the things that bring about lack of mental well-being.

I shall briefly talk about myself. Wherever I read about mental well-being and all the slings and arrows of outrageous fortune thrown at the poor, I am astonished that I have managed to survive all the slings and arrows thrown at me and all the slings and arrows that I threw in response. I shall mention a lovely quote:

"You are who you are because of other people".

That is from the work of Julie Hannah, I think quoting Mr Dainius Puras, but I am not so sure about that. You are who you are because of who you know. It is a brilliant quotation. I was very fortunate that every now and then I met somebody who behaved in an adult way towards me, such as my probation officer. I am so glad to hear that we are bringing probation back inside and not leaving it to the ne'er-do-wells who do not seem to be able to handle probation in the commercial sector. Probation was the service that stopped me behaving strangely in a way that would harm my mental well-being. I survived because of the people I met, such as my ex-wife. I would like to praise my ex-wife, who took me in, looked after me and helped my mental well-being. The problem is that most people are not lucky enough to be a duck and a diver and a bobber and weaver and a cheeky chappie like John Bird. I am very fortunate, but there are a lot of people out there who do not have the succour,

[LORD BIRD]

support and opportunities that came to me. It was lucky, but it was mainly the fact that there were people who looked at me in a particular way and helped me into work, education and sociability.

One of the good things that the rapporteur, Mr Dainius Puras, has said is that you cannot always look at mental health with a medical response. You cannot think that it is a National Health Service problem. It is not simply a National Health Service problem; it is a problem for all of us because it is a tangential series of things that need to come together. We need to ensure that people can get out of poverty because poverty is the big killer when it comes to holding people back in society. We know that there is a direct relationship between mental health and well-being and what you are doing in life. We know that the poorer the food and standard of living, the more enormous threats there are to your mental well-being. I do not think the Government need that proved once again. All we need to know is that the Government are going to up the tangential belief, not simply the medical belief—the pharmaceutical road that you take to sort out people's mental well-being. If you have a good job, it increases the chance of you having a stable mental health existence. If you have a good job, you can pay your own way and take your family on holiday, to a museum or to the seaside and have a general sense of purpose in your life. If you are living on the edge, you are like somebody with permanent toothache. You are stuck there and it will affect your mental well-being, which will go out of the door.

Over the past six months, we have been working on a very interesting project in Northampton. We chose Northampton before the council went belly up; there was no relationship between the two; that was to do with somebody else. We chose Northampton because we wanted to do something very simple. We accepted the idea that if you want to address the questions of mental well-being, you need a supportive, stitched-together, functioning community, not a series of holes where people wander from hither to thither without any sense of purpose. We did something very simple. We got people in Northampton to start to trade together. We got the housing association working with the estate agent and the hospital working with the local bread company. We pulled them together. We were trying to lay down the first stages of re-engaging with a healthy community so that it could then move on and have the mental well-being, the jobs and all the other things that you need when you have a community.

Northampton is very interesting because we have managed to create what we call a social echo. A conference is coming up there. It is wonderful. It is an inspiration on our part, but it has been taken up by local people. A social echo is how you create businesses working in the community—for instance, providing work for long-term unemployed people who were suffering enormous mental health problems. How do you manage to get them back into work? The way you do it is by looking around the community and asking whether the housing association's services can be sold to other players in the community so a job comes out of it.

I am an incredibly practical person. I have never done anything complex. I always describe my work as very dumb. When it came to working with homeless people, I did not address their mental well-being or the fact that they had been troubled and harmed in their early lives; I addressed the fact that they were getting themselves into trouble and into crime. I created a crime prevention programme so that people would stop committing crimes because I thought it was important to remove crime from their lives, and then you could address the mental well-being issues and all the other issues. You could start pulling them together in other ways.

I have now got to sit down.

2.09 pm

Baroness Redfern (Con): I thank the noble Lord, Lord Bird, for introducing this debate and for the opportunity to take part in it. This is, in many cases, a tricky subject because mental ill health is unfortunately still poorly understood by some. Nevertheless, I welcome the emerging change of attitude towards it and the Government's commitment to provide extra funding of £2 billion in real terms.

Attitudes in society are slowly improving but have to be set against the huge impact that mental ill health has on the people who suffer from it. It frequently leads to a downward spiral of unemployment, poverty and family breakdown, as well as deteriorating health and well-being. It is silently endured. People feel marginalised and in some cases, I am afraid, excluded from society.

As we know, poor mental health is a leading cause of worklessness and sickness absence, but I want to pay particular attention to those in the criminal justice system, to which the noble Lord, Lord Bird, alluded earlier. People in prison typically have poorer health and suffer from mental impairment. The attempt to cope is particularly prevalent among men, who keep their emotions under wraps. They try to balance social issues such as poverty and indebtedness. Often, they are unemployed or have been made redundant, or they have never been employed. Many are poorly educated and homeless or their homes have been repossessed, and many come from deprived backgrounds. What challenges to cope with.

Prisoners with mental health issues who slip through the net and whose needs are not adequately addressed might be more likely to reoffend. We know that two-thirds of the country is now covered by criminal justice liaison and diversion services, whereas three years ago only one-quarter was covered. The probation service plays a crucial part in delivering those services, with much more emphasis on face-to-face interviews, getting to know a person well and not laying bare another statistic. We need to ensure that all other organisations are part of that delivery mechanism, particularly local authorities, which have renewed responsibilities for public health.

When looking for a new beginning with a new job or perhaps a return to work, some people unfortunately encounter workplaces that refuse to make any allowances. Instances of that happening will reduce with new initiatives to support the workplace. Research has shown that employers who embrace a duty of care and invest

in health initiatives to support the health and well-being of their employees have the potential to see a significant return on their investment. Mental health support in the workplace can save UK businesses up to £8 billion per year. It has also been shown that getting people into work can help reduce a huge economic burden for them and their families.

Therefore, we must give a big push and mark the first opportunity that people have on leaving prison to hold an ambition, possibly for the first time. We must make it really pay for them, and make it happen not only for them but for their families. They simply cannot do it alone. They need all-out support for their mental well-being. Getting that precious job can and should be a real step change, and it is about providing support and helping them to keep that job.

In conclusion, we have to broaden the debate. I look forward to a development pathway to improve mental health provision across all criminal justice settings, with support programmes such as Access to Work, backed up by the full integration of all agencies, so that we have a transparent and effective monitoring procedure and a review of its effectiveness.

2.14 pm

The Lord Bishop of St Albans: My Lords, I too thank the noble Lord, Lord Bird, for bringing forward this debate, for his distinctive introduction of a kind that we always enjoy when he speaks in the House, and for his tireless work in trying to support people who, for all sorts of reasons, find themselves disadvantaged. I pay tribute to him.

Inequality, unemployment and mental ill health are three interconnected, intersecting areas which are important to address if we are to have a flourishing and thriving society in which all can participate. As we know, mental ill health is one of the two main disabilities affecting participation in work. I am glad that the Government have decided that the NHS long-term plan will assist people with mental health issues into work. That plan recognises that mental health problems disproportionately impact on people living in poverty and those who face various forms of discrimination. This is a huge step forward in the visibility and awareness of this issue, and I hope that it really will help us move ahead.

In my own area of work, I note that last year poor mental health was identified by clergy in this country as the number one social issue that they had to grapple and deal with. That is what we are picking up as happening on the ground. It is in all our interests that we look at this issue to make sure that all people have access to safe, stable and well-paid work, which is why I commend the TUC's Dying to Work campaign. As many noble Lords will know, it addresses the particularly difficult situation of those who have been diagnosed with a terminal illness but who either want to work, because it is an important way of them coping with some pretty devastating news, or simply have to work for financial reasons, as they are still trying to support a family.

When people face the emotional stress, fear and uncertainty of being diagnosed with a terminal illness, they often face a lot of difficulties at work, especially if

they have a long-term or progressive disease. This can be an horrific situation if unsympathetic or obstructive employers simply do not understand what is happening when people are at a particularly vulnerable point. That is why the TUC's voluntary charter is to be applauded. Indeed, it is shocking to think of people being dismissed or forced out of jobs that they love at a time of such acute personal difficulty.

I am pleased to be part of a Church that has always taught the innate value of human life and its unique dignity for all people. That is why it is even more important that, when people face a terminal illness, they should be given the support and respect that they need. This initiative is part of the progress that we are making.

The intersection between inequality in employment and mental health manifests itself in other areas. As the *Mental Health at Work 2018* report made clear, we know that those who are poorly paid or in insecure work, as well as black and minority-ethnic people, face worse than average mental health problems. The Church has worked with BAME people to put together a mental health toolkit that recognises the issues this community faces—for example, overdiagnosis of schizophrenia, overprescription of drugs and under-engagement by healthcare professionals, all of which have huge impacts that we need to address. The toolkit is designed to reduce stigma, disseminate crucial information and continue to confront racism wherever it is found.

At a time when we know that young people from BAME backgrounds are almost twice as likely to be unemployed as their white counterparts, it is vital that we explore the reasons behind that. There is a need to support those with mental health issues, which are sometimes wrongly used by bosses as a barrier to employing these people. This lack of access to mental health support cannot continue. Indeed, at a time of high unemployment, when we need more people for the sake of the economy, it is in everybody's interests that it does not continue.

In the 2014 *NHS Five Year Forward View*, published by NHS England, a commitment was made to work towards a more equal response across mental and physical health, achieving parity of esteem by 2020. That was five years ago and time has moved on very rapidly. Although there are of course issues around some communities accessing physical healthcare, they appear to be less acute than in the mental health equivalents. Can the Minister clarify the progress towards this aim, set out back in 2014, and what steps are being taken to mitigate the impact of accessing this care?

Of course, this is much bigger than just the responsibility of government; we cannot take just a top-down, centrist approach to tackling the problem. One of the privileges of my job as I travel around Bedfordshire and Hertfordshire visiting charities is to see so many groups trying to work in innovative ways. I think particularly of some of the charities getting people into gardening and working on allotments. My right reverend colleague the Bishop of Carlisle, who is sitting next to me, appeared last month in various national newspapers launching an initiative at Lambeth

[THE LORD BISHOP OF ST ALBANS]

Palace to help communities think about using gardening, gardens, allotments and suchlike to help people with mental health problems.

We need to get a much wider commitment to addressing this problem. Yet again, there is an economic disparity between those with and without access to green spaces. We in the Churches are trying to encourage people—and, indeed, our churches and churchyards—to work with mental health charities to create spaces where people can get experience and make a contribution to society.

There is so much more to be said, but we have limited time. I hope that we can learn that we need to address this multifaceted, complex issue and work together to help those with mental health problems.

2.21 pm

Baroness Hollins (CB): My Lords, I am grateful to my noble friend Lord Bird for calling this debate. I remind the House of my interests as listed in the register.

In 2016, the *Five Year Forward View for Mental Health*, which has already been mentioned, stressed that mental health problems disproportionately affect people living in poverty, people who are unemployed and those who already face discrimination. In 2018, the report on mental health at work by the Prince's Responsible Business Network highlighted the links between financial insecurity, poor mental health and poor work performance.

My concerns are for those who struggle the most with all these issues: people with learning disabilities, of whom less than 6% are in paid employment compared with nearly three-quarters of non-disabled people. These are some of society's poorest and least empowered people, people who are often left without a voice and without hope.

I trust that the Minister's response will recognise that the concerns highlighted by my noble friend are most severely experienced by persons with learning disabilities. I have spoken before about some of the barriers to employment that they face, such as the low aspirations of many employers, teachers and parents and a scarcity of role models—people like themselves in work—all of which lead to low aspirations among people with learning disabilities themselves. They also face other challenges, such as in managing time, money and travel.

I declare an interest as the editor and co-author of several wordless books about work, funded by the DWP as part of its drive to reduce the disability employment gap. The books were published by the charity Books Beyond Words, which I founded and chair. With simple tools such as these and the provision of training to Jobcentre Plus staff and employers in how to use them, an otherwise marginalised group can be empowered to overcome the barriers that I have described. We can help people to embark on a journey to inclusion and prosperity, and help employers to become more confident in employing people with different abilities and understanding the cultural value of their inclusion in the workplace.

Let us consider for a moment some of the unequal aspects of life faced by people with learning disabilities and the consequent effects on their mental wealth and

mental health—for example, the dangers of loneliness that for any of us accompany exclusion from ordinary life chances, including work or other meaningful occupations.

Last year, I co-launched the BELONG manifesto, which includes six ways in which people can feel good about themselves: for example, having a reason to get out of bed in the morning. They are the same determinants of good mental health as were spelled out in the report of the special rapporteur in the 41st session of the Human Rights Council last month. The manifesto says—let us think about this in the context of people with learning disabilities—that we would all belong when,

“the institutionalisation of people ... has ended ... there is enough money to spend on food and essentials ... there are opportunities to make some choices in life ... there is an end to being bullied ... and everyone can access healthcare, education and employment”.

The ability to earn money as opposed to being on benefits can give a sense of independence and self-esteem that can lead to a sense of purpose in one's life; a secure job can provide routine and structure. However, the attributes that persons with learning disabilities can bring to a job are too often underrecognised. We know that job insecurity contributes to anxiety, depression, low self-esteem and social isolation. These are health issues that persons with learning disabilities and autism experience to a higher degree than the non-learning-disabled population.

The Government's statistics already indicate that just under a million more disabled persons have entered the workforce in the last five years. In a recent adjournment debate in the other place on the topic of unemployment in people with autism, the Minister for Disabled People confirmed that the Government are working with the Office for National Statistics to factor people with autism into the Labour Force Survey. I hope that the Minister will take this up so that it might be applied to people with learning disabilities too. Simple considerations by employers such as recognising the difficulty people may have in completing online applications or performing at interviews designed for those without disabilities should be readily addressed.

There are examples of good progress in encouraging and supporting people into work, such as the Government's Access to Work scheme. Such schemes are welcome because they can address the need to provide for individual, often complex, needs and provide coaching and work experience opportunities. The Autism Alliance has developed a disability toolkit providing information on autism and other impairments for jobcentres.

There are also exemplary employers who successfully tap into this ready and waiting pool of workers. Dimensions, a nationwide support service for people with learning disabilities, has employed people with learning disabilities in campaign adviser and quality auditor roles. My Life My Choice based in Oxfordshire employs people with learning disabilities as experts by experience to review care provision for suitability for persons with similar needs to their own.

One may say that these are specialist employers, but that need not be the case. In the United States, Walmart has pioneered the employment of disabled people,

including those with learning disabilities, in its stores and distribution centres. There could be a greater drive to encourage similar, employer-led, larger-scale schemes here too.

Can the Minister describe what proportion of intended spending to realise the vision of *Improving Lives* is earmarked for people with learning disabilities and autism? Will Her Majesty's Government commit to specifically include learning disability within their poverty and labour force data collection, so as to measure success in supporting this group of people to access work and escape poverty?

Relatively small, short-term costs in the form of adequate training, mentoring schemes and other bespoke support provision can reap great, long-term rewards for the people I have talked about, their communities and our economy. I suggest that the Government need to do more to address this pressing need.

People may have particular needs which must be met if they are to be present and play a part in the workforce. A very moving moment for me was when I heard about an employer working with a Mencap scheme who thought he was doing a favour by offering a work placement to a man with a learning disability but discovered that the presence of this man in the office led to a change of culture and people generally being nicer to each other because of his inclusion. This led to the organisation determining that it would always include someone with a learning disability in the office environment. Sometimes, the focus on productivity and efficiency can mean that we forget some of the softer skills that people can bring to the team environment in the workplace.

2.28 pm

Baroness Jolly (LD): My Lords, this has been a varied debate with interesting contributions: the noble Baroness, Lady Redfern, talked about the criminal justice system and how all this fits in; the right reverend Prelate the Bishop of St Albans talked about discrimination and how wearing that can be, as well as the importance of work at the end of life and the TUC voluntary charter; and the noble Baroness, Lady Hollins, spoke of how less than 6% of people with a learning disability are in employment.

I should declare my interests as set out in the register. The organisation I chair also works towards placing those it cares for in appropriate work settings.

At the end of last year, I attended a round table on health and ageing at the European Parliament. We looked at the human rights of the older person. It gave me an interesting insight into policy-making in the context of our human rights. I decided to pursue this line for this debate, so I hope noble Lords will excuse me if this sounds a little unusual.

Last week, mental health was discussed at the 41st session of the UN Human Rights Council. The noble Lord, Lord Bird, referred to this in his opening speech, and I thank him very much for instigating this debate. At the UN, the special rapporteur argued that good mental health and well-being cannot be defined by the absence of a mental health condition but must be defined instead by the social, psychosocial, political, economic and physical environment that enables

individuals and populations to live a life of dignity, with full enjoyment of their rights in the pursuit of their potential.

One of our human rights is that of health, which of course includes good mental health, along with others such as participation in democracy, provision of adequate and suitable housing and education, a family life, access to justice, participation in society and workers' rights. In many parts of the world, these are observed in the breach, but here in the UK—a wealthy nation and one of the founder signatories of the Universal Charter of Human Rights—there is no excuse if they are not observed.

There are protective factors such as social inclusion, community resilience, LGBT rights and rights for workers, as well as, interestingly, access to good housing and green spaces. On the other side of the coin are risk factors, including social exclusion, violence against the person, bullying, discrimination and poor working conditions. It is clear to see that these two kinds of factors are the determinants of good and bad mental health. They are easy to recognise and we can readily identify components of each, yet we struggle to amplify those protective factors and reduce the risk factors. All this fits neatly with the title and thrust of this debate.

This rights-based approach gives us a framework to work with. States have an obligation to respect, protect and fulfil all our rights, including our right to good mental health. National Governments may directly contravene the obligation by cutting benefit levels, failing to make suitable housing available and restricting education opportunities. In areas of low employment, we should not be surprised to find a greater than average incidence of poor mental health.

In England, health and well-being boards convened by local authorities are well placed to look at this issue in their local areas. Consisting of representatives from local government, health, police, the local LEP and the voluntary sector, they are well placed to identify risk factors for their areas and work together to mitigate them. Similarly, they are able to identify the local protective factors. Local authorities and the LEPs should identify local opportunities and local risks.

In 2017, Public Health England produced a toolkit to understand health and well-being at a local level, acknowledging that stable and rewarding employment is a protective factor for mental health, and unemployment and unstable employment are risk factors. This toolkit helps the health and well-being boards to produce their joint strategic needs assessment, which needs to be done on an annual basis. Of course, any local plan to improve mental health should be determined with the active involvement of service users and carers, and the local voluntary sector.

The noble Lord, Lord Stevenson of Coddanham, and Paul Farmer, the chief executive of Mind, wrote an excellent report called *Thriving at Work*, a review of mental health and employers, which was welcomed by both the Department of Health and Social Care and the Department for Work and Pensions. Its vision was to embed the following changes within 10 years:

“Employees in all types of employment will have ‘good work’, which contributes positively to their mental health, our society and our economy ... Every one of us will have the knowledge,

[BARONESS JOLLY]

tools and confidence, to understand and look after our own mental health and the mental health of those around us ... All organisations, whatever their size, will be ... equipped with the awareness and tools to not only address but prevent mental ill-health caused or worsened by work; ... equipped to support individuals with a mental health condition to thrive, from recruitment and throughout the organisation; ... aware of how to get access to timely help to reduce sickness absence caused by mental ill health”.

And this would,

“dramatically reduce the proportion of people with a long term mental health condition who leave employment each year and ensure that all, who can, benefit from the positive impacts of good work”.

Can the Minister tell the House how far away we are at the moment from having a sustainable welfare and support system operating in tandem with the health system and partners across all authorities in England? Could she tell the House what stage we have reached with the vision of Paul Farmer and the noble Lord, Lord Stevenson? And who is the Minister responsible?

2.36 pm

Baroness Sherlock (Lab): My Lords, I thank the noble Lord, Lord Bird, for using the initiative he described to us at the start to seize the opportunity of securing this debate and giving us the chance to talk about these issues. I thank all noble Lords who have spoken, for some very interesting speeches. I thank the right reverend Prelate the Bishop of St Albans for some really thoughtful reflections on the interaction between mental health and employment, issues around stigma and discrimination, and the role of the Church and communities. There is so much more that one could go into.

I thank the noble Baroness, Lady Hollins, for another piece of articulate advocacy on behalf of those with learning disabilities and autism. I loved that story about an employee and the impact that one person with learning disabilities can make. It reminded me so much of the lessons taught to us by the late and much-lamented Jean Vanier on how much we could all benefit by taking them on. I also thank the noble Baroness, Lady Jolly, for a really interesting approach, talking about risks and interventionist factors and how we could use those on a rights-based agenda, as well as the existing health and LEP programmes we have to tackle these issues.

I am being quite literal. I want to look at the title of the debate and ask: do job security and inequality impact on mental health? What does the evidence say? There are two questions. First, does inequality have an impact? Yes, it does. There is clear evidence, summarised well by the Equality Trust, that a much higher percentage of the population suffers from mental illness in more unequal countries; for example, the evidence from the USA is that rates of depression in US states are associated with income inequality. The evidence and the academic side are clear. While I am here, it is worth noting that poverty is also a significant driver of stress and poor mental health, a point made by the right reverend Prelate. The 2016 report from the Mental Health Foundation and the JRF found that:

“Poverty increases the risk of mental health problems and can be both a causal factor and a consequence of mental ill health”.

Secondly, what about job insecurity? Various studies have looked at the impact of the nature of employment on mental health. I read one just this morning. Research by Menéndez-Espina et al, published in February, observed that,

“job insecurity ... has direct effects on the different areas of mental health evaluated, in men as well as in women”.

Of course, the report of the UN rapporteur, which we have already heard about, draws attention to the fact that the way work is organised has profound and lasting social and psychological repercussions.

Does the UK have a problem with either inequality or job security? Yes, it does. The Equality Trust shows that, according to the most recent data from 19 OECD member states in the Luxembourg Income Study dataset, the UK is the fifth most unequal country and the fourth most unequal in Europe. Figures from 2016 show that the poorest fifth of society has only 8% of the total income, whereas the top fifth has 40%. The figures for wealth are even worse. We are not talking about poverty, but the figures on poverty show that it is rising and the problem is getting worse for those in and out of work.

What about job insecurity? A recent spate of company closures from retail to steel has put many people out of work and made other people very nervous about what is happening to their jobs. Also, we have 850,000 workers on zero-hours contracts, two-thirds of them stuck on them for more than a year. A TUC-commissioned poll of workers on zero-hours contracts found that more than half had had shifts cancelled with fewer than 24 hours’ notice. Nearly three-quarters had been offered work with fewer than 24 hours’ notice. More than a third have been threatened with not being given shifts in the future if they turn down work. It also found that only 12% get sick pay, only 7% would get redundancy pay and 43% do not get any holiday pay.

This is really stressful and insecure work. If you have no idea how many hours you will get each week, you do not know whether you can pay your rent or feed your kids. If you do not get sick pay or any other pay, you will be afraid to turn down work. You will go to work when you are sick or injured because you do not have any alternative. If you are threatened with not being given work if you turn down shifts, you will go even if you are not up to doing it. That is bad for people’s physical and mental health. Other TUC analysis found that those on zero-hours contracts were twice as likely to be working night shifts or seven-day weeks. They earn less per hour as well. This is not good work.

What is the Minister going to do about it? First off, does she accept this association between job insecurity and inequality on the one hand and mental ill-health on the other? If she does, I have some serious questions to ask. What might she do about it? Will the Government look again at the rights extended to workers on insecure jobs? Why should they not get the full range of rights that other workers do? If she is in the position to, will she look again at whether people should be presumed to be employed, with the burden of proof going on to the employer to show that they are not? Does she recognise that, in fact, most workers’ rights have been won by trade unions over the years? History shows that. The reduction in collective bargaining and

unionisation in many sectors has been clearly associated with a reduction in rights. What will the Government do about that? Will she consider revisiting some of the anti-union legislation or making it easier for people to organise to get the rights they deserve?

Also, what will the Government do about addressing the fall in living standards, especially for those in low-paid work? What are they going to do about the inequality that has been revealed by the studies I have mentioned? Will the Government look again at the way they use the tax and benefits system to address inequality? What will they do about those who are in work, or those who want to get into work, but are struggling with mental health? All the evidence we have heard from people is that the nature of the assessment process they have to go through to get help—with PIP, for example, to get help with moving into work or trying to get help because they cannot work—actually makes people's mental health worse.

I have personally sat down with someone who had an appalling time applying for PIP. She was turned down, but she got it on appeal. She said that the process was so bad for her mental health that she would never again apply for it, no matter how desperate she got. I know that that is a single case, but I have heard over and over again that people find the process so stressful that something has to be done about it.

That is an amazing canter through what is there, but I suggest that if we take seriously the association between job insecurity and poor mental health, and between inequality and poor mental health, it is not enough simply to buy a much bigger box of sticking plasters. We need to tackle the root causes.

2.42 pm

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, I thank the noble Lord, Lord Bird, for securing this debate. As usual, these Questions for Short Debate are too short as there is so much to say. I believe I have some good responses to all noble Lords, and I will do my best to answer their questions as I go through.

Both employers and the Government have a stake in the nation's mental health. The Government provide the necessary health support, offer a safety net when they are out of work, and can ensure that employees have the right rights. Employers increasingly recognise that they have a crucial role to play in creating the healthy workplaces for employees to remain in work and thrive, in providing a supportive environment where employees can discuss health issues without stigma, and in helping people to return to work in the right way when they fall ill.

Mental health is a matter of national importance, and we are committed to improving mental health services by investing record levels in them, with annual spending reaching £11.98 billion last year. Targets in improving access to psychological therapies, or IAPT, are being exceeded. In March 2019, 99% of those completing treatment waited less than 18 weeks for their treatment to start in England against a target of 95%. In March 2019, 88.9% of people completing treatment waited less than six weeks against a target of 75%. In February 2019, this figure was 88.6%.

Under the NHS long-term plan there will be a comprehensive expansion of mental health services, with an additional £2.3 billion a year by 2023-24. This will give 380,000 more adults access to psychological therapies and 345,000 more children and young people greater support in the next five years. As the noble Lord, Lord Bird, said, early intervention is vital. We are going further by piloting a four-week waiting time standard for treatment, training a brand new dedicated mental health workforce for schools, and teaching pupils what good mental and physical health looks like. We encourage all NHS staff to undertake suicide prevention training with all NHS organisations to facilitate this.

The Secretary of State for Health and Social Care wrote to social media and internet providers on 26 January to express concern about suicide and self-harm content. He held a follow-up round table with them on 7 February 2019 to discuss the impact of the internet, particularly suicide and self-harm content, on mental health and well-being. Another round table was held on 29 April to discuss progress, and social media companies agreed to join and fund a strategic partnership with the Samaritans. That is close to my heart, as I used to chair the advisory board of the Samaritans. I do not think any noble Lords touched on social media, but it is a crucial part of the whole story behind mental health.

We know that too many people with a mental health condition do not participate as fully in the key activities of society, including work. The figures are stark: almost one in five working-age people in England has a common mental health condition, rising to almost one in two for people on out-of-work benefits. We know that people unemployed for more than 12 weeks are between four and 10 times more likely to suffer from depression and anxiety.

However, it is not good enough for people to be in work. I agree with the noble Baroness, Lady Sherlock: they need to be in good-quality work. The UK is leading the way internationally as we tackle challenges that have arisen as a result of new business models. The Government's *Good Work Plan* represents the largest upgrade to employment rights in a generation. As laid out in the plan, we will legislate to improve the clarity of employment status checks to reflect the reality of modern working relationships; bring forward proposals on a single enforcement body for employment rights; introduce a right to request a more predictable and stable contract for all workers; and legislate to ensure workers get the full value of the tips they earn, except for those deductions required by tax law. Extending the right to a written statement to workers and making it a day one right will give people a better understanding of the employment relationship they are entering into and more information up-front about their rights and protections. Introducing a right to request a more predictable contract will help give workers more personal and financial security if they are seeking more predictable hours.

Good work supports our good health. It keeps us healthy, mentally and physically. It enables us to be economically independent and gives us more choices and opportunities to fulfil our other ambitions in life.

[BARONESS BUSCOMBE]

Our *Improving Lives: The Future of Work, Health and Disability* Command Paper, published jointly in November 2017 by the Department of Health and Social Care and the Department for Work and Pensions, sets out a comprehensive strategy for achieving the Government's challenging target of seeing 1 million more disabled people in work by 2027. Given the scale of this ambition, a key part of our programme is to achieve transformational change by focusing action in three key areas: welfare, workplace and health.

Employment rates are at historic highs. When I went to the UN in New York a couple of weeks ago, I was proud to be able to say that employment for people with disabilities has risen by around 950,000 in the past five years. I said that we in the United Kingdom focus on ability, not disability. I agree so much with what the noble Baroness, Lady Hollins, said: those with disabilities have so much to contribute. If an employer is not employing someone with a disability, they had better watch out because they will find that the person they should be employing is employed by someone else. It is the right thing to do.

The Government recognise the crucial role of employers in creating mentally healthy workplaces. Too many people fall out of work because of their mental health, so we are asking employers to do more to prevent this. Last week the Government announced that a consultation on new measures to help employers better support disabled people and those with long-term health conditions in work will also be published next month. These measures will include reforming statutory sick pay, so that it is better enforced, more flexible—to encourage a phased return to work—and covers the lowest paid. As part of this consultation, the Government will consider how to achieve the appropriate balance of incentives and expectations on employers to create healthy, inclusive workplaces, and encourage employers to invest in occupational health support.

The Government remain committed to finding ways to help employers, especially SMEs, support their employees to return to work promptly from sickness absence. By working with our partners, including employers, this Government can continue to tackle poor mental health. This is part of building a country that works for everyone, and reflects what we have done as a result of the Stevenson-Farmer review, referenced by the noble Baroness, Lady Jolly. This was an independent review, set up in January 2017, into how employers can better support all employees, including those with mental health or well-being issues. It also set out a compelling business case for action, with a central recommendation that all employers should adopt a set of six core mental health standards to encourage an open and transparent organisational culture that supports employees' mental health. These standards included developing mental health awareness among employees, encouraging open conversations—which are so important—about mental health and routinely monitoring employee mental health and well-being. It recommended that all public sector employers and private sector companies with more than 500 employees deliver mental health enhanced standards, including increasing transparency and accountability through internal and external reporting. Momentum

is building around the challenge for all employers to adopt the core standards that lay the foundations for good workplace mental health, and for larger businesses to adopt the enhanced standards. Officials are working with a range of partners, including the Chartered Institute of Personnel and Development, large employers and charities, to monitor and review the effectiveness of the voluntary framework.

The Civil Service has embraced the framework. We are working with all government departments to support them in their ambition to publish against the framework in full this year. It will take time before we can truly call all our workplaces healthy and inclusive, but we have been encouraged by the level of engagement with and commitment to this agenda. In response to the question from the noble Baroness, Lady Jolly, the Minister responsible for this review and its outcomes is my honourable friend Justin Tomlinson, the Disability Minister.

We also have to think about those who are out of work. The Government are committed, as far as possible, to supporting into work people with mental health conditions who are out of work. All our work coaches across the Jobcentre Plus network now receive training on supporting people with health conditions and disabilities. Additionally, the rollout of the Health and Work Conversation across the UK supports work coaches in continuing to build engagement with claimants who have disabilities and health issues. The Government continue to invest in mental health-related trials and studies; this includes doubling the number of employment advisers, improving access to psychological therapies and launching a £4.2 million challenge fund to build the evidence base of what works to support people with mental health and musculoskeletal conditions.

We are doing more. We have to think about people with debt. In response to a consultation, we are going ahead with a breathing space scheme. Debt causes enormous stress. This policy will make a real difference in supporting people with debt. In addition, the NHS provides services to people experiencing the symptoms of debt problems and financial difficulties.

Reducing inequality is so important as inequality can cause or exacerbate poor mental health. However, the policies of this Government are highly redistributive. This year, low-income households will receive, on average, over £4 in public spending for every pound they pay in tax, while the highest-income households will, on average, contribute over £5 in tax for every £1 they receive in public spending. Income inequality is lower now than it was in 2010.

Much has been done to increase awareness and reduce the stigma of mental health. The DWP is working increasingly closely with the Department of Health and Social Care but, as the noble Lord, Lord Bird, said, it must be joined up and be cross-government. Also, as the right reverend Prelate said, it is not just about government. We have to think beyond government to all those who can offer support, including our religious institutions. How can they support, and what can we use to help those with mental disabilities?

Finally, my noble friend Lady Redfern referred to those leaving prison. I have been in discussion with Secretary Acosta, the US equivalent of the Secretary

of State for Work and Pensions, about what we are doing and what they are doing about employing people who have been in prison and what to do with people with disabilities. I heard a story of somebody in prison who was very well off; he had committed a financial crime. While he was in prison, none of the other prisoners ever asked him for money but almost every one asked him for a job. So much of this is about people having something meaningful to do, as well as being in a supportive society that recognises and understands mental health and is, not before time, removing a stigma, to support more people in a way that I hope will encourage the noble Lord, Lord Bird.

Apprenticeships

Motion to Take Note

2.56 pm

Moved by Lord Young of Norwood Green

That this House takes note of the Apprenticeship Levy and the case for the effective delivery of workplace opportunities for young people.

Lord Young of Norwood Green (Lab): My Lords, it gives me great pleasure to move this Motion, focusing on an area in which I have a long and abiding interest, as most people know. I declare my interests, which are twofold: first, as an ex-apprentice, and secondly, as the only apprenticeship ambassador in the House of Lords, I think.

The objective of the apprenticeship levy is agreed by everyone: we want more good-quality apprenticeships. When the Government announced their intention to create 3 million apprenticeships in the parliamentary period up to 2020, a number of us expressed the view that the number of apprenticeships was not the most important thing for the Government to focus on; to paraphrase that old saying, never mind the width—we want to feel the quality of the apprenticeships. We have been proved right. It does not give me pleasure to say that. Most Governments have had a go at forming policies on skills and apprenticeships. We have had some success but some things have not gone so well. When Tony Blair announced that his three priorities were “education, education, education”, and decided that it would be a good idea, given the knowledge economy, for 50% of young people to go to university, that was good in itself; it certainly had an impact on social mobility. If it had a negative impact, it was by somehow implying that if you did not go to university, you were not quite up to the mark. That was not the intention but it shows how difficult it is to get policy right.

On quality, we had the Richards review—an important review that found, perhaps unsurprisingly, that some things that were badged as apprenticeships were only for six months and of poor quality. He rightly recommended a minimum level of 12 months—I would query whether even that is long enough—with 20% off-the-job training.

That is some of the background. When it started, employers viewed the apprenticeship levy with a bit of suspicion. Would it be just a payroll tax, or would it do what we wanted it to do: drive up the level of interest

among employers and make them understand the importance of contributing towards training and apprenticeships? If nothing else, it focused their minds. If an employer’s yearly pay bill was £3 million, 0.5% of that was their apprenticeship levy. Soon, the finance department was nudging HR and saying, “What are you doing with it, where is it going?” In that respect, it was good.

However, when it started, it was disappointing inasmuch as the number of starts was much lower than we expected and lower than in previous years before the levy. That has improved and the Government argued, rightly, that would take time to bed in but it still has some worrying aspects, which I will cover later. The Sutton Trust made an interesting comment: never mind looking just at the number of starts—you also need to keep your eye on the number of completions. It is a bit worrying that 32% of apprenticeships were not completed; I think that that was in 2017. We will never drive that up to 100%; I remember that when we in the previous Labour Government started looking at this, the figure was pathetic. Completions were down to about 27% and we drove to that up to about 72% of a much smaller number. I welcome the Minister’s response on what he is doing to ensure quality control. That is question number one, which it will be important for the Minister to address.

I remember commenting on a number of occasions on the key role of training providers in the scheme. I expressed some concern when, at one point, it seemed that anybody could set themselves up as a training provider. I was told, “Don’t worry about that—Ofsted will be around”. I said, “Yes, but have you seen the periodicity of Ofsted inspections? They are every three years”. As a training provider, I could function for three years below the radar while providing poor quality—and some did. Some bigger ones went bankrupt as well. We have a better system now, with a register of training providers, but I cannot stress enough to the Minister the importance of ensuring that those providers are of a high quality. After all, they are the first port of call for employers; if their experience of training providers is that they are of poor quality—I am still getting some feedback—that tends to create a negative approach. Remember that with apprenticeships, when we talk about quality, it is a matter of not only what you deliver but the perception of what is out there. It is about the perception of employers, parents and potential apprentices, whether the younger or the adult ones. The quality of the brand is key if we are serious about improving the long-term role of apprenticeships.

I listened with interest to some of the debate on the Augar report, which I welcome because it stresses the importance of apprenticeships. The report points out that if 50% go to higher education, what about the other 50%? It is not as though there is no crying demand for skills in this country: whole swathes of industry are desperate for more skilled people. That may be in the construction industry or, as I learned recently—much to my surprise and real disappointment—in nursing, which is struggling to meet its target of 1,000 apprenticeships because, it was found, the funding arrangements made it really difficult. I do not necessarily expect the Minister to have the answer on that but, again, I welcome his commitment to look at the situation.

[LORD YOUNG OF NORWOOD GREEN]

We know about the demand for nursing so I cannot help feeling that the response, “That’s okay: we’ll rob other countries overseas, which are desperately in need of those qualified people, and use them”, is wrong. This should be a matter of our own respect: we ought to train and recruit these people ourselves.

The levy expenditure has, needless to say, been a matter of some interest to employers. For the past six months or so, people, myself included, have been going around saying, “If the average employer has claimed back only 15% of what they paid into the levy, there’s a large surplus, so what will happen to it? Will it just go back to the Treasury?” It took until a month or so ago for me to hear definitively from the National Apprenticeship Service that there was no surplus any longer because of the expenditure from the couple of years that preceded the levy on the existing frameworks and standards. If anything, it is likely that we have overspent. In a report to the Public Accounts Committee, the Education and Skills Funding Agency admitted that it would have to go back and renegotiate. From an employer point of view, that is a matter for worry when they were initially assured by the Government, “If you pay into the apprenticeship levy, you’ll be able to draw it out again”. It is quite a complicated formula when you go into it; I will not attempt to do so now.

I want to raise some further points, including on the question of higher and lower skills. In looking at the statistics, we found that the level 2s and level 3s have dropped quite significantly, while there has been a huge increase in the take-up at a higher level. I have nothing against that but when we find out the cost of those higher-level qualifications—some employers are using the levy to fund MBAs and so on—people are beginning to ask themselves, “Where do we want to focus apprenticeship funding?” I certainly think it vital not to neglect the level 2s and level 3s. They are a core area for young people, who will hopefully start their careers. We know that every young person who we can engage in an apprenticeship and remove from the terrible situation of being not in education, employment or training—who is horribly classified as a NEET—is a success story. It gives them a career opportunity that can set them off for life. I welcome the Minister’s views on this important issue.

I said in previous debates that the levy will not work unless we move the dial on SME take-up. If we do not manage to get a significant number of small and medium-sized employers to take up apprenticeships, they levy will have failed; large employers will give you only so many, so it is vital. The Government have tried to address that by saying that large employers can take 20% of their levy funds and help employers in their supply chain. Larger employers are telling me, “That’s all very well but I can’t just throw that money at them. It has to be managed, which takes time, and there is no allowance for that”. Another comment I have had is about functional skills. Employers say to me, “I’ve got young people who are potentially good at apprenticeships but I have to spend time in getting their English, maths and IT skills up to standard so that I know that they will complete an apprenticeship successfully”. Again, I welcome comments from the Minister on that issue.

There was also a bit of a hiccup, if that is the right word, in starting the levy in that it depended on the Institute for Apprenticeships and its trailblazer groups to determine the apprenticeship standards. It got off to a bit of a slow start, but it has improved significantly and the feedback is now better—except that employers say to me, “Over a two to three-year period, those standards will become a bit dated and I’ll need to amend them”. Trying to amend a standard is a difficult process; they are saying that there is not enough flexibility there. One retail employer with a lot of small stores also told me that it could recruit 500 more apprentices but has a problem in its small stores: if it releases an individual for one day a week, it needs to find some way to cover them but does not have that surplus capacity. That is another problem area.

A review of the apprenticeship levy is taking place, which is good. Like all large schemes, it needs reviewing. To say that the review is secret is probably an exaggeration but there is not enough transparency, let me put it that way. I keep hearing, “I am a large employer of apprentices. Why have I not been formally involved in this review?” I make a plea to the Minister, as I welcome his comments on the importance of involving employers in that process. That is important to retain their confidence.

We are asking a lot of employers: we are asking them to participate not only in the apprenticeship levy—do not get me wrong, they ought to do so because they should understand the importance of training the next generation; I am not letting them off the hook—but in T-levels, which are a fundamental change to qualifications where each participant requires 45 days of work experience a year. Some employers say to me, “What am I expected to do? Do you want me to concentrate on apprenticeships or deal with T-levels?” It is not all negative, and I do not want it to be perceived that way, but that is another problem.

I will end on what I said earlier about the importance of perception. I still see schools not giving their pupils the right careers guidance. They do not encourage employers to come in. We know that the Baker amendment made that a compulsion so, again, I welcome the Minister’s response on that. I am grateful for this opportunity to air what I regard as one of the most important subjects and challenges facing us. I beg to move.

3.11 pm

Lord Norton of Louth (Con): My Lords, I congratulate the noble Lord, Lord Young of Norwood Green, on securing this debate. It is especially timely, as it enables me to develop points I made in Tuesday’s debate on the Augar report, when I addressed apprenticeships, and enables my noble friend Lord Younger to say what he had intended to say in that debate, having run out of time just as he was about to comment on apprenticeships.

I declare my interest as an academic and as chair of the Higher Education Commission, which draws together people from business, academia and Parliament. Our most recent report, launched in January, was entitled *Degree Apprenticeships: Up to Standard?* We took evidence from sector leaders, as well as a wide range of higher-education organisations and employers, including IBM, Boots and BAE Systems. The importance of

apprenticeships was reflected in the turnout for the launch of the report—there was standing room only—with our recommendations clearly resonating with those attending. The need for action is also clear from the briefings we have received for today’s debate from the Local Government Association and Sutton Trust.

As we found, there is widespread recognition of the value of apprenticeships. I quote Sir Chris Husbands, vice-chancellor of Sheffield Hallam University:

“An education system fit for the twenty-first century ... must ensure the acquisition of both academic and technical skills... Students need that. The nation needs that”.

In short, the benefit is not confined to those taking apprenticeships. It benefits the economy and enriches society.

The problem, as the noble Lord has said, is with provision. There are difficulties especially, but by no means exclusively, for SMEs and disadvantaged students. The system of delivering apprenticeships is unduly crowded and lacking in flexibility and efficient co-ordination. We heard criticism of the Education and Skills Funding Agency’s procurement process, with many high-quality education institutions, across all levels of apprenticeship, not receiving funding to meet the needs of SMEs. The current funding regime is not fit for purpose. Under that regime we have a patchwork quilt of provision.

Our evidence showed that the artificial separation of levy and non-levy providers, coupled with a botched non-levy procurement process, has resulted in a lack of providers, particularly for SMEs. Among our principal findings was that, of 51 approved degree apprenticeship standards, almost half had no providers that are delivering to SMEs. There are problems also with the length of degree apprenticeships, the absence of stop-off points and the inflexibility of design, as the noble Lord touched on, which may result in a mismatch between provision and future skills needs.

The losers are not just SMEs, but students in areas of educational and economic disadvantage. We identified what we referred to as “apprenticeship cold spots”. We found that an aspiring apprentice from Norfolk, compared to someone from Hammersmith and Fulham, has to travel, on average, 12 times as far for the nearest apprenticeship opportunities. We concluded that what is particularly needed are stable funding arrangements, streamlined administrative procedures for the approval of degree apprenticeships and longer-term policy stability. There is also a need, as the Sutton Trust has noted, for pupils to receive advice on apprenticeships.

Among our recommendations are: creating equal access for SMEs by permitting HE institutions already delivering degree apprenticeships to big businesses to deliver for small businesses; creating a more agile bureaucracy and rationalising what are presently costly and repetitive processes for employers and providers; and speeding up the process for approving standards. We also favour offering additional financial support for prospective degree apprentices from cold spots and disadvantaged backgrounds. As I said in the debate on Tuesday, I very much welcome the Augar committee’s recommendation for a body of work that examines the

challenges that are preventing SMEs taking up opportunities for degree apprenticeships. This very much mirrors our recommendation for such a review.

It is possible to make changes to render the system more flexible, integrated and quicker, and to do so without great cost. Indeed, in economic terms, the nation would be a clear beneficiary. Does my noble friend agree with the analysis I have offered, and could he say what the Government are doing to achieve these goals? I had a meeting not so long ago with the Minister for Apprenticeships, Anne Milton, so I know the Government are alert to the issues. It would be helpful to have a progress report on what is being done. The rewards, to students, to business—not least to small businesses—and to the economy are substantial.

The Motion refers to,

“the case for the effective delivery of workplace opportunities for young people”.

That includes apprenticeships but, in my view, can be taken more broadly. There is value in not seeing the delivery of workplace opportunities as confined to apprenticeships. It is important to recognise that such opportunities benefit students taking courses in HE and FE. In Tuesday’s debate, I referred to the value of experience-based learning. Having the opportunity to do a work experience placement as part of a degree course helps to build confidence as well as develop skills that employers want. Linking study with a placement facilitates understanding, as well as opening up opportunities of which the student may not previously have been aware. It prepares the student for life after graduation. That is all to the good and something we should be encouraging across HE and FE. There is a much greater recognition of its value than before, but we need to press further for recognition of its worth and status. If anything, it should be the norm and not the exception. I would welcome my noble friend’s endorsement of that view and invite him to comment on the work experience opportunities offered within government. How extensive are those opportunities and are there plans to extend them?

Like the noble Lord, Lord Young, I finish by returning to the point about advice. As the Augar review stresses, good information, advice and guidance are crucial for anyone seeking impartial advice about jobs, careers, routes of learning and qualifications. It argues that careers support is still underfunded and that schools should be held to account for their statutory responsibility to provide information, advice and guidance. For prospective students to take up apprenticeships, or degree courses with embedded work experience opportunities, they need to know about them. What plans are there to supplement the careers strategy and enable prospective students—from wherever they are drawn—to make informed choices? Does the Minister agree that failing to invest in providing such guidance is a false economy, the losers being not only the students but the nation, which needs the workforce necessary for a virile economy and a vibrant society?

3.20 pm

Lord Fox (LD): My Lords, I declare my interest as an officer in the APPG on Apprenticeships. I apologise for my voice today.

[LORD FOX]

In a rhetorical flourish in 2015, David Cameron announced that the Conservative Government had set a target to support 3 million new apprenticeship starts by 2020. As the noble Lord, Lord Young, alluded to, that was building on a process that had already started, not least with the Richard review, which was commissioned by the coalition and set out a strong rationale for increasing the number of quality, well-managed apprenticeships. With that, and with my colleague Vince Cable in BIS, there was a flourishing of support for apprenticeships, with over 2 million new ones created between 2010 and 2015. Under the subsequent Government, the structure for delivering those changed and that is part of what the House is debating today. I congratulate the noble Lord, Lord Young, on securing this debate. It is a pleasure to follow the noble Lord, Lord Norton. Much of what I am going to say—probably with less authority—rings true with the preceding speech.

Many noble Lords will talk about quality, but I will talk about numbers because that 3 million is the rod which the Government have set themselves to be beaten with. I am grateful to the Association of Employment and Learning Providers for its data. I apologise for going into some detail on the figures, but I want to put them on record. If there are any discrepancies, perhaps the Minister can write to noble Lords about them. In short, the overall start numbers are down significantly from the position we were in before the levy started. This is particularly true for non-levy payers and for apprentices aged under 25. This probably relates to the point made by the noble Lord, Lord Norton. In March 2019, intermediate—level 2—apprenticeships were down 2% on March 2018, and down 67% from March 2017, which was before the levy. For advanced—level 3—apprenticeships there was an increase of 7% between 2018 and 2019 but that too was down, by nearly 49% on 2017. Higher-level apprenticeships are up 35% on 2018 but still down on 2017. It is clear that the target of 3 million that the Government set themselves is now unattainable. Will the Minister confirm that the target has been scrapped and that we can concentrate—as the noble Lord, Lord Young, wisely said—on the quality of what we are delivering rather than the quantity?

Interestingly, as has been alluded to, higher-level courses, including MBA degrees, accounted for 12.8% of workplace training starts in the first year. That is more than twice what was going on before the levy started. Management apprenticeships were the most popular, with 28,000 starts in 2017-18. This probably caught the Government by surprise. Was this what the Government were expecting, or has it been a surprise? This matters, because of money. These are expensive apprenticeships and there is a sense that non-levy payers are having the opportunity for apprenticeships drained by these highly expensive schemes which are coming through. It seems that funding for non-levy paying SME employers is running out and has been capped, with no funding to support any future growth between April 2019 and March 2020. Can the Minister fill in the dynamics of this?

As the noble Lord, Lord Young, alluded to, there is an overall lack of published data and transparency around this. Let us not forget that the levy is a contribution

by business and industry to the Treasury. Industry deserves a transparent report on how the money is being spent and the plans for spending it in future. Perhaps the Minister can add some transparency to this issue. There have been authoritative reports that the Government have been mulling over an increase in the levy from 0.5% to 1%. Will the Minister use this opportunity to refute that? Given the current state of the scheme, to increase the levy would be adding petrol to a smouldering fire.

The spirit of this debate should be that there is universal good will towards making it work. The Government still have a lot of work to do to get industry to understand what is going on. The British Chambers of Commerce found that 23% of levy-paying firms still had no understanding of how the levy works and how to access funds. The Chartered Management Institute and British Chambers of Commerce called for the levy to be reformed. The House of Commons Education Committee has recommended the implementation of pilots. I will come back to that point. I spoke to people at today's Make UK reception, where the main theme was that the scheme is too complicated and not flexible enough to be used. When the Government are considering their review, flexibility and simplicity have to be at its heart.

As a good example of flexibility, I was pleased to see today's announcement of the ScreenSkills pilot. It has been almost impossible for firms that have short-term contracts to run apprenticeships. This pilot is very small, including only 25 people, but it is a good example because the creative and media industry is important to this country but is not currently using anywhere near the amount that it contributes to the scheme because of the nature of its contracts. I welcome that pilot, but we need others and other imaginative ways of adding flexibility and, perhaps, as other noble Lords have hinted, broadening the sorts of things that the levy can be used for. I will come back to that point.

Lifting the tight restrictions and adding flexibility is important for dealing with the issues of cold spots, which has been mentioned, and social inclusion, which is another important area. We need to make sure that we are not just putting the money into places where apprenticeships are already strong, and not just supporting companies in already strong industries. That tends to be the way this levy works.

We want to put vocational education, at whatever age, right at the heart of the political agenda. Every party understands that, with the challenges facing the country, we have to get that right. It should be a cross-party exercise. The economy is evolving and we need new skills. For that reason, the Liberal Democrats would seek to expand the scope of the apprenticeship levy to a wider skills and training levy to add flexibility that works. While keeping the contribution at 0.5%, we would use the cash raised, not just for apprenticeships, but for a wider training programme. However, we would allow companies to do that only if they had an acknowledged and accredited apprenticeship scheme as well, because we would not want all this money to fly out. The starting point would be that a company would have to have an apprenticeship scheme before it could use some other unclaimed money for that process. We would also ensure that 25% of the funds raised

would go into a social mobility fund, which we would use to feed into the regions and the cold spots and to make sure that we have diverse apprenticeships.

It is a great shame that the apprenticeship levy has been implemented in a complicated and poor way. We need to make sure, together, that we can get it right. There is a review, but drastic changes need to take place and there is no time to lose.

3.31 pm

The Lord Bishop of Carlisle: My Lords, I too am most grateful to the noble Lord, Lord Young, for bringing this very important subject to our attention. Like him and both the noble Lords who have spoken, I do not suppose that anybody would argue against the value of apprenticeships, or the principles that undergird the apprenticeship levy. Indeed, the Church of England is a very strong supporter of both, as well as a significant contributor to the levy. If that is an interest, I am glad to declare it. We are keen to play our part in improving skills and increasing productivity throughout the UK workforce, as well as providing more opportunities for young people to find worthwhile employment.

In the earlier debate today we were reminded of the very significant connection between just such worthwhile employment and mental well-being. However, like the noble Lords who have already spoken, we do not believe that the process is yet as effective as it might be for achieving those laudable ends. I shall briefly mention four issues.

One of the main problems appears to be the speed at which the regulator is able to respond to the development of new standards. Our own church minister apprenticeship standard is one example. The standard itself, which has been in development since 2017, has been approved, but written confirmation of what is known as its endpoint assessment has still to arrive. There are also some outstanding questions about the allocation of its funding band. We understand that the Church of England is not the only so-called trailblazer to have experienced long delays while attempting to introduce new standards. To that end we all welcome a recent speech by the Apprenticeships and Skills Minister, Anne Milton, on exactly this issue.

Closely connected with the problem of speed is that of apprenticeship levy spending. The rules governing access to levy funds have been criticised, not least already this afternoon, as overcomplex and inflexible. Due largely to the sorts of delays I have mentioned, it is estimated that nationally, large employers, including the Church of England, are in effect losing as much as £12 million a month. We welcome the extension of the maximum levy fund payment from 10% to 25% for what are known as organisations and stakeholders in supply chains, which for us in the Church of England translates as parishes and dioceses, but at the same time we would appreciate a rather more realistic approach to the way such payments can be accessed.

A third matter of concern—it was raised by the noble Lord, Lord Young, in his introductory remarks—relates to the need for provision at levels 2 and 3; in particular, for those young people who are just starting out in their careers and trying to find a place on the apprenticeship ladder. We have already heard various

statistics, but since the apprenticeship levy was introduced there has been a 42% decline in the number of level 2 apprenticeships. This is not helped the formation of a clear apprenticeship pathway. As the House of Commons Public Accounts Committee has pointed out, it risks leaving behind people with lower skills and those from more disadvantaged communities. What is more, the recently published Augar review, which has been referenced already, called for,

“an efficient distribution of Level 3, 4 and 5 provision within reasonable travel-to-learn areas”.

That has particular resonance for those of us who live, as I do, in the more rural parts of England. I would be grateful to know from the Minister what plans Her Majesty’s Government may have for tackling the provision of lower-end apprenticeships, especially in the more remote and sparsely populated regions of this country.

Finally, as we have already been reminded, especially by the noble Lord, Lord Fox, I am aware that the original target of 3 million new starts by 2020 will not now be reached. I appreciate the new emphasis that has been placed on quality rather than quantity. Of course, quality is tremendously important, but that does not mean that numbers no longer matter. It would be good to know what sort of figure the Minister might regard as a suitable replacement target.

3.36 pm

Lord Layard (Lab): My Lords, I welcome this debate because we are talking about the future of at least half of all our young people. For those who do not go to university, apprenticeship has always been the main route to a skill. It has also been the biggest source of social mobility in our country, but unfortunately in the 1970s and 1980s both our main political parties switched their focus to full-time education and apprenticeship nearly died in this country. Fortunately, things have changed, largely due to the Labour Government’s apprenticeships Act 2009, which followed a landmark report from the Economic Affairs Committee of this House. Apprenticeship is now eminently respectable, but still nothing like as available as it needs to be; nor is it sufficiently coherent.

I start with one of the most shameful facts that I have become aware of in recent years. Some 37% of our 18 year-olds are not in full-time education or workplace learning. It is an unbelievable figure and the background against which we are talking now. I want to talk in a long-term sense about what kind of system we need to build over the next five to 10 years to deal with the problem of the other half of our young people. We obviously have to offer them as clear a route through apprenticeship as we now offer the other half through university. Every young person knows how the university route works: if you qualify at one level you are, de facto, guaranteed a place at the next level up, and there is a unified and relatively simple system of making applications at each stage, including to university.

Consider the contrast with the apprenticeship route, which is as labyrinthine and unclear as could possibly be dreamed up—probably even more so. The opportunities come and go from year to year, with constant changes of funding and no unified application system. We have to create an apprenticeship route by which any young

[LORD LAYARD]

person who qualifies at one level can expect to find a place at the next level up, just as is the case if they go down the university route. There needs to be, as with the university route, a de facto guarantee of a place at the next level up as you go through the system.

I shall talk briefly about what the guarantee would be. First, it would concentrate on the level 3 apprenticeship. I propose a two-part guarantee: there should be a guarantee to any young person who satisfies some conditions of entry to a first level 3 apprenticeship. The conditions would be either five good GCSEs, including maths or English, or another level 2 qualification, or—this is important for universal access—a pre-apprenticeship certificate. The other bit of the guarantee has to be a free place on a pre-apprenticeship course.

In the 2009 apprenticeships Act, entitlements of this kind were given legal force, but these clauses were repealed by the coalition Government. I am not saying that we should reinstate legal entitlements, but we should have entitlements in our mind as a basis for all future planning of provision. As I argued in our debate on Tuesday, the way to guarantee an entitlement is to provide uncapped per capita funding for all the places needed. All apprentices in training with an approved provider should receive automatic per capita funding, on some tariff basis of course.

However, we cannot be sure that even that would generate enough places, because the employers have to be on board. We also need somebody making a major effort to find enough apprenticeship places. We know that there is currently massive excess demand for apprenticeship places, with many more people trying to find an apprenticeship than the number of apprenticeships that get started. That is why we have a National Apprenticeship Service. It is surely its job to deliver that kind of guarantee and find the places.

Let me say a little about who these are for—the question of age and level. The prime purpose of any apprenticeship system has always been to introduce young non-graduates into the world of work. We must keep our focus on that. It is absolutely incredible that 40% of apprentices now are over 25. This is a complete distortion of the fundamental concept of an apprenticeship system. The priority must be those aged under 25, and it must be, above all, for people not interested in going to university. They should be the priority groups. I suggest that at least 70% not of places but of funding should go to level 2 and 3 apprentices aged under 25: that is, no more than 30% should go to levels 4 and 5, and levels 6 and above should be funded by loans, just like all other degree courses. The Department for Education is in a position to impose these restrictions, and it should do so. I would welcome the Minister's comments on restoring the apprenticeship system to its original purpose.

I will now move on to the application process. It is very difficult to get an apprenticeship, much more so than to get into a university, because there is no unified application system. We need one; it could be run by UCAS. A would-be apprentice would make a single application which would then get passed on from the centre to the local branch of the National

Apprenticeship Service. It would then do a rough matching of a number of applicants to each vacancy and send those potential applicants to the businesses offering those vacancies, which then choose among them using their own further testing and interviews.

If we had a single application process, it would of course deal with the problem, as already discussed, of schools. Schools would have to operate that application system, just like they operate UCAS; they would have to tell people how to apply for an apprenticeship, if that is what they want, just as they have to tell them how to apply to a university. It would also help us in an operational way around the problem of information.

I end with a comment on the economics of the T-level, raised by an earlier speaker. We have been doing some research at the London School of Economics on the earnings gain that young people of a given type receive by going either into an apprenticeship or to a college to get the same level of qualification. The apprentices are earning 20% more than the people who take the full-time route. The apprenticeship route is the gold-standard way of getting a skill, because your learning is directly related to what you are doing at work.

Full-time education with a work placement is completely different. The employer is not so interested and does not have the same incentive to bring you on. That must be the explanation of the huge economic effectiveness of the apprenticeship system. Where there is any conflict, as there might be between supporting T-levels and apprenticeships, my vote is for apprenticeships.

We are discussing one of the weakest aspects of our whole national life. It is interesting to note that at 15 our students do as well in maths, science and literacy as those in France and Germany, but by the ages of 20 to 25 the bottom third or half have dropped right behind. This is the basic weakness in our social and economic system. Once young people have left school, we simply abandon a third or more of them. We have to do better and must do it soon.

3.46 pm

Lord Aberdare (CB): My Lords, I too congratulate the noble Lord, Lord Young of Norwood Green, with his notable commitment to apprenticeships, on obtaining this debate and introducing it so comprehensively. It is a timely follow-on from Tuesday's debate on the Augar review; on both occasions I have had the pleasure of following the noble Lord, Lord Layard.

Thinking about today's debate, I have been asking myself: what is the apprenticeship levy for, what is it intended to achieve, and for whom? There seemed to be rather a lot of possible answers. It can be a means to promote personal development and social mobility by providing opportunities for individuals, including those from disadvantaged backgrounds, to gain new employment-related skills. That might have been part of the rationale for setting the rather arbitrary target of 3 million apprenticeship starts. However, is it, or should it be, mainly aimed at younger people entering the jobs market for the first time, as the noble Lord, Lord Layard, suggested, or should it be about enabling people of all ages and experience to enhance their skills and move to a new level in their career?

The Government might say that the levy is focused on meeting the skills needs of employers, so they, or the market, should decide what apprenticeships should be available, and how they should be spread between attracting new job market entrants and upskilling existing employees. The Augar report suggests that the levy should help to address national objectives for tackling issues such as productivity and competitiveness, and therefore align with the Government's industrial strategy. But many employers, including levy-payers in the devolved nations, and others who cannot use their payments to take on apprentices, such as the employers of temporary and contract workers, who are members of the Recruitment & Employment Confederation, may look at the levy just as a sort of hypothecated tax, designed to raise money to help pay for the Government's skills-related policy initiatives but with no direct benefits for them. The levy does indeed begin to seem like a perfect policy for Boris Johnson, seeking to be all things to all people.

Therefore, my first point—with apologies to noble Lords, including the Minister, who heard me say something similar on Tuesday—is that it is hard to answer questions about how well the levy is working, and how it should be adapted and improved, in the absence of a clear strategic framework setting out what it does and does not seek to achieve, and how its effectiveness should be assessed.

Next, I will outline some issues with how the levy is working, to which I hope the Minister may give some answers, particularly as he has heard many of the same issues raised by many of the speakers in the debate already.

First, there is the question of flexibility, about which so many employers and indeed so many of your Lordships have expressed concern. The uses to which levy funds may be put are tightly defined, as is the amount that can be shared with other businesses in the employer's supply chain—although the increase from 10% to 25% is welcome. The Augar review suggests that apprenticeships at level 6 and above, including degree apprenticeships, should be available only to apprentices who have not previously undertaken a publicly supported degree. This might help to address concerns that not enough levy funding is going to young people, especially 16 to 19 year-olds. There are suggestions, including from the noble Lord, Lord Fox, that the levy should be redesignated as a skills and training levy, and made eligible to be spent on a wider range of skills development needs, not just apprenticeships. There are also issues about the processes involved in setting up apprenticeships: the lack of transparency in standard-setting; problems with end-point assessments, as the right reverend Prelate mentioned; and the amount of bureaucracy involved, which is off-putting to smaller firms interested in offering apprenticeships.

Other issues relate to funding. Not many levy-paying employers manage to use all their levy funds to provide apprenticeships. However, in trying to do so, they tend to focus on upskilling existing employees, and on higher-level, higher-value apprenticeships. Meanwhile it appears that the funding available for non-levy payers, which comes directly from government funds, supplemented by unspent levy funds, if there are any, shows signs of drying up. How much funding does the

Minister anticipate will be available to support apprenticeships offered by non-levy paying employers, and what will happen when that money runs out?

In Tuesday's debate, I raised the issue of making it easier for SMEs to take on apprentices. Specific mechanisms are needed for this purpose, such as apprenticeship training associations. I also hear that independent training providers, which provide much of the training for SME apprenticeships, are starting to worry about the financial risks involved in that route and are thinking about shifting their focus to larger employers, where their funding is more secure. I hope the Minister will be able to say something today—he ran out of time on Tuesday—about government plans for supporting SME apprenticeships. Perhaps he could tell us how the Government are working with the devolved Administrations and regional bodies to ensure that apprenticeship policies across all four nations are complementary rather than conflicting, and that they all contribute to the skills and workforce resilience needs of the UK as a whole.

Last but not least in my list of issues is the continuing need for awareness raising about apprenticeships, particularly among teachers and parents—a point strongly made in the briefing from the Sutton Trust, along with a recommendation to set up a UCAS-style portal for apprenticeship applications, which I would also support and which the noble Lord, Lord Layard, also spoke about.

I look forward to the Minister's comments on these issues. I end by mentioning the second part of today's Motion: the case for the effective delivery of workplace opportunities for young people. The Government's statutory guidance for schools on careers strategy requires students to have at least seven meaningful employer encounters between years 7 and 13, and at least two workplace experiences by age 18. Students on the new T-level courses, starting next year, will have to spend a minimum of 45 days on an industry placement. This will require substantial commitments of time and resources by employers.

How does the Minister expect this demand to be met? Having had the experience of providing work experience placements in my own small business, and of persuading other employers to do so, I know how challenging this can be for smaller employers, but many will have to be engaged to meet the government's targets. Is the Minister aware of organisations such as Speakers for Schools, and the similarly named but completely separate Founders4Schools, which are focused on arranging work experience placements at scale?

Founders4Schools runs a program called Workfinder, which has a particularly impressive and ambitious digitally driven approach, especially with fast-growing small businesses. Being digital makes for much better reporting, with greater transparency and accountability. Will the Minister explore how such initiatives can be incorporated into the Government's plans for ensuring that the large number of workplace opportunities needed are provided and meet high quality standards? As a final thought, he might even consider whether work experience provision might itself be made eligible for levy funding. Many small businesses seem puzzled by why apprenticeships receive funding but work experience and internships do not. I very much look forward to the Minister's response.

3.55 pm

Baroness Pidding (Con): My Lords, I start by thanking the noble Lord, Lord Young of Norwood Green, for securing this debate. Education is the engine behind social mobility. It provides opportunity and unlocks the potential that often resides unknown within people, particularly the young, across the country and can equip them with the tools to lift them out of poverty.

We are fortunate to live in a country that can boast some of the world's largest pools of untapped raw potential and underutilised talent. Unfortunately, we have for too long not recognised how we can best draw out the full potential of our young people. I fear that we have moved to a one-size-fits-all approach, channelling generations of schoolchildren through the machinery of our university system, saddling them with debt and often failing to meet the needs that their talents genuinely deserve. I have no desire to disparage our university system, a system that is the envy of much of the world, but I want to illuminate the truth that it is not the best way to meet the needs of many of our young people. I have long advocated an alternative that can run parallel to the university system, offering opportunities to people whose skills and interests are not necessarily suited to university. It is a fact that people learn through different methods, and it is only sensible to reflect this in our education system.

The apprenticeship model is a genuine alternative to the university system, often proving far more suitable to the needs of both young people and business. That is why I welcomed the 2015 announcement by the then Prime Minister David Cameron that the Government would support 3 million new apprentice starts by 2020. This system offers the chance to many young people to learn practical skills and unlock their full potential, giving them the tools they need to improve their lives and the lives of their families. We must show young people that apprenticeships are an equally worthwhile option that will lead to long-term employment. That said, I share the view of the noble Lord, Lord Young, that we need to ensure the quality of the brand.

Businesses have also benefited from the apprenticeship programme. The challenges facing many companies in the UK are complex, but lack of productivity and the skills gap of people leaving university are among them. They have recognised that education and recruitment need modernising to meet those challenges. For those reasons, many companies have embraced the apprenticeship programme. They have found that it has improved the diversity of talent and widened the pool of applicants. This is having a significant impact on both career and social mobility within companies.

Companies have also found that people who would otherwise not have applied for opportunities in their business are using the apprenticeship programme. I am sure that noble Lords will have read the briefing that the insurance company AXA sent. The take-up of apprenticeships there has resulted in a more diverse and creative workforce, which has positively impacted the productivity of its employees.

As a country, we need more highly skilled people. Given the challenges and opportunities that lie ahead after our vote to leave the EU, we need to ensure that

young people, who will be the drivers of our economy, are given the best opportunity to succeed in the workplace. Simply put, their success is our country's success.

I recognise that the Government's apprenticeship programme is not perfect; relatively few policies translate in practice as the finished article. However, I hope noble Lords will agree—I believe I sense this mood in the Chamber today—that the aim behind the scheme is laudable and deserves to continue. That is why I am glad that steps have been taken to improve the system, with more money invested in the programme in 2017 through the apprenticeship levy. Nevertheless, I would like to see more emphasis on how this programme can be promoted as a real alternative to university and on its potential as a mechanism for social mobility.

Noble Lords may recall that last week I asked a Question to my noble friend the Minister about how we can improve and widen careers advice in schools. The noble Lord, Lord Young, followed up with a question sharing concerns and has touched on that again today, as have other noble Lords. We are not reaching all schools in talking about apprenticeships as a real possibility to be considered by our young people. We hear that employers still complain about some schools denying access to pupils to talk about apprenticeships and other career opportunities. As the noble Lord, Lord Young, said last week and again today, that is despite the Baker amendment and previous legislation. We must ensure that all schools meet their obligations to provide full career path options to their pupils. I have said in this Chamber before that if we want to create a ladder of opportunity, rather than a missed opportunity, we need to provide better career advice in schools on apprenticeships.

It is for these reasons that I welcome today's debate and hope that both this House and the other place will continue to strive to improve this vital gateway for social mobility and for our young people to reach their full potential.

4.01 pm

Lord Pendra (Lab): My Lords, the House should be indebted to my noble friend Lord Young for giving us the opportunity to take another look at the apprenticeship levy scheme since its inception in 2017 and the pressing need for greater workplace opportunities for our young people.

I declare an interest in this debate: I began my working life as an apprentice in an electrical engineering firm, ironically here in Westminster. I have therefore known at first hand some of the benefits of apprenticeships as a means for young people to gain skills and experience in the workplace. My apprenticeship was coupled with two years' national service in the Royal Air Force—another invaluable experience. The skills and discipline I acquired in those experiences stood me in good stead for another apprenticeship here in Parliament: being elected to the House of Commons and later ennobled in this place.

It is clear that we need carefully considered government support for apprenticeships to give opportunities to as many young people as possible, and the introduction of the apprenticeship levy by the Government in 2017 was, of course, a welcome start. To be fair to the Government, they have already recognised the need

for some adaptations to that legislation. I particularly welcome the reduction in the amount that small firms have to contribute to the scheme, from 10% to 5%, so that smaller businesses are more supported.

But the scheme still needs to address many further issues. I am sure noble Lords, like me, have had expressed to them the concerns of the Recruitment & Employer Confederation that around 1 million temporary workers are locked out of the scheme. This leaves us in a position where large numbers of firms paying in to the levy and employing temporary workers are not able to use any of that money each year—a particular issue for sectors with acute labour shortages, such as our caring sector and others. The decline in the numbers of level 2 apprenticeship starts under the scheme in favour of higher-level managerial apprenticeships is also somewhat concerning, as is the drop in the quality of apprenticeships which we saw highlighted in the Augar review.

In the form that it was introduced, however, the levy has proved problematic in a number of areas, and as outlined by my noble friend Lord Young, after two years of the scheme this is a good time to look afresh at what changes need to be made. Over the past two years, the disappointing numbers of apprenticeship starts under the scheme has only continued, particularly among smaller and medium-sized firms, and the proportion of levy funds accessed by employers has been lower than expected. As even the Education Secretary himself admitted, the Government are subsequently not on track to meet their target of creating 3 million apprenticeships by 2020. The noble Lord, Lord Fox, also commented on that in agreement.

A whole range of employers and organisations, not least the British Chambers of Commerce, pointed to the rules of the levy being too complex and rigid as a key contributing factor to this sorry state of affairs, and it stressed to us both the need for greater flexibility in the use of funds and a greater effort by the Government to increase understanding of the levy itself. It is clear that the Government should take action to prevent the levy being used to simply up-skill existing employees, and to prevent rigid target chasing resulting in increased numbers of low-quality apprenticeships.

I share the concerns of the noble Lord, Lord Aberdare, expressed in the debate on Tuesday that, as a body principally primed to regulate our state education, Ofsted may not be best placed to regulate the quality of employer and industry-driven apprenticeships. Being the son of my predecessor at the Football Trust, whom I succeeded as chairman, it did not surprise me that the noble Lord speaks so knowledgeably on this and other subjects. He and others, such as my noble friends Lord Blunkett and Lady Blackstone, spoke in Tuesday's debate compellingly of the extent to which the Augar review highlights the great neglect of our further education that we have seen in recent times. I hope that, as such an important aspect of further education, apprenticeships and the further reforms to the levy that are needed will not be neglected by this or subsequent Governments.

4.08 pm

Baroness Cohen of Pimlico (Lab): I too thank my noble friend Lord Young of Norwood Green for introducing this debate. I declare an interest as a board

member of a multi-academy trust in Cambridge and vice-chairman of one of the university technical colleges set up under the auspices of the Baker Dearing Educational Trust. I also have past form: until recently I was chancellor of BPP University, which is a provider to most of the big law firms and accountancy firms of the teaching of degree-level apprenticeships.

I was unable to take part in the debate on Tuesday this week on the *Independent Panel Report to the Review of Post 18 Education*, but I take this opportunity to congratulate the panel, its chairman Philip Augur and his DfE team on their work. The opening paragraph ought to resonate with us all. For those of us who have forgotten since Tuesday, it states:

“Post-18 [or ‘tertiary’] education in England is a story of both care and neglect, depending on whether students are amongst the 50 per cent of young people who participate in higher education (HE) or the rest”.

The report goes on to say that,

“universities and university students are both cared for and cared about”,

adducing the fact they receive over £8 billion in funding and most of the media comment and attention—and, for that matter, most of the political attention too.

In the debate on the Higher Education Bill in 2017, 180 Members of your Lordships' House, many of them chancellors of universities, spoke, whereas in the debate on the Technical and Further Education Bill, which set up the Institute for Apprenticeships, now IfATE, 18 Members—fully 10% of the number of Members who spoke on universities—spoke on a Bill which sought to increase opportunities for the other 50% of our children. It seems to me that the independent panel was right on the button in its opening comments.

As my noble friends have noticed, apprenticeships historically were how most people gained employment and qualifications and were a prime instrument of social mobility. The huge increase, now up to 50% of our young people, mandated by Governments particularly over the past 10 years, has rendered apprenticeships less important to many of our learners. However, they are key to improving productivity, which has stalled, at least in part because of skill shortages, and they retain their importance for increasing social mobility, which also seems to have stalled.

The big success story in increasing apprenticeships has been degree-level apprenticeships. I have a problem with them. Speaking as an ex-provider, degree-level apprentices are mostly not new employees; they are being used publicly as a substitute for employing graduates. Many big firms prefer to take on apprentices at 18 rather than graduates at 21 because they can train them properly and in a way that is useful to them. These apprenticeships are immensely popular with students and their parents because the apprentices emerge free of debt and with a guaranteed job or a recognised qualification.

One large accountancy firm, for example, writes that it is now tending to reduce the number of graduate trainees in favour of the 18 year-old apprentices so they are now about half and half. However, while these are new apprenticeships, they are not new employees. These are not, in some sense, new opportunities. Mostly, as Augar points out, these degree-level apprenticeships

[BARONESS COHEN OF PIMLICO]

are operated by large firms in service industries—I do not know how much they are substituting for graduate trainees—but there are also employers in manufacturing industry who run successful schemes, Rolls-Royce being the prime example.

It would be easy to conclude that a degree-level apprenticeship conveys automatic advancement to a good skilled job, and that at that level very little care or state intervention is required to ensure that the learners succeed. However, having been chancellor of BPP University, which teaches accountancy and law, principally, for students on degree-level courses, I can say that it is not entirely problem free. The Government have sought to mandate that 20% of these apprentices' time must be spent in formal learning, but we found that it could be very difficult to extract competent young people who are earning money for their employers—ironically, often on government contracts—to ensure that they get the time off for formal learning. It is difficult for any training provider to insist on a large and profitable client releasing its people for 20% of their time, but it is vital for the learner. I would like to be clear that that would be enforced. In 2017, I urged the Government to mandate it in statute, but they preferred to do it by mandating IfATE. I am sure that it remains necessary that training providers for these degree-level apprenticeships be regulated and considered, even though many university departments, as well as the private sector trainers, are training providers.

I think there is a risk here, as identified by Skills Minister Anne Milton. She was concerned that it would mostly be educated middle-class parents who got their children to take up apprenticeships. I agree with this perception. My experience of parents' evenings at the university technical college of which I have the honour of being a governor, and which produces both BTEC and STEM A-level pupils, is that it is the middle-class parents who are looking forward to qualifications post A-level, with a view to getting their offspring on to these apprenticeships. I think that growth in this sector will, if not interfered with, take care of itself, but it needs to be looked at with a view to introducing regulation. I am concerned that these are expensive degree-level apprenticeships and they drain the available levy provision.

The problem lies with increasing apprenticeships that convey level 2 to 5 awards. As Augar identified, there is a gap everywhere in level 4 and 5 provision that stands in the way of progression beyond level 3 for many of our young, and that goes also for apprenticeships. There are very few apprenticeships at levels 4 and 5, and they are urgently needed to enable progression beyond level 3 for those who do not for one reason or another go on to university.

Perhaps even more critical is the shortage of level 2 and 3 apprenticeships, although in Cambridgeshire several sixth-form colleges are providing proper skills training in subjects such as healthcare and hairdressing. They take students to level 3 and, indeed, provide a de facto qualification that will get them into a skilled job. However, full apprenticeships have a role to play at this level, particularly for students from low-income

homes, where the cash earned by the learner is critical. That is also true of level 2 apprenticeships. The cash is a great help, particularly to low-income families.

During the passage of the Bill, I and colleagues, including four former Secretaries of State for Education, found ourselves wondering whether employers could be expected to pay enough attention to the social need to involve all our young. Back then, we were not confident. We all understood that employers have their own agenda, and several of us, including my noble friend Lord Young, who introduced this debate, were particularly doubtful that levy funds would be used by employers to set up new apprenticeships at the lower level to enable more of our young to progress.

It is clear that we were right to be doubtful. It is clear, too, that many employers decided to recoup any levy funding that they provided by taking the easier route of using the funding to train people they already had up to and including the level 6 qualification—the degree-level apprenticeship. A briefing paper from the Royal Academy of Engineering—received, I imagine, by most of us—makes my point for me. The academy asked for the levy to be made more flexible so that it could be spent on different things. That, to me, is a clear sign that it is not really intending to spend it on exactly what we asked it to be spent on.

That is not to castigate employers, who need to look after their businesses, ensuring that they are profitable and improving productivity. However, they would prefer to do it naturally, rather than enter the difficult field of taking on new apprentices, perhaps in a part of the organisation that does not have them already. Nor do I think that you can make employers responsible for engaging in improving the social process. That, I believe, is a matter for government, requiring government weight and money behind it. We have heard that, disappointingly, much of the levy fund has been drained. The one question that I would like to ask the Minister is whether he is prepared to see an increase in direct funding to enable these apprenticeships to take place.

In short—it had better be short, as I can see that I am running out of time—I welcome the opportunity afforded but I think that it is going to the wrong place. By and large, it is going to existing employers, who are using it to upskill—in a way that is fine; it is not a waste—and to degree-level apprenticeships, which, I agree with Augar, ought to be financed under the normal loan rules.

4.19 pm

Baroness Prashar (CB): My Lords, I too thank the noble Lord, Lord Young, for initiating this debate and doing it so comprehensively. I agree with most of the points made so far and agree with all the speakers that this is a very important debate, because it is really about social mobility.

Apprenticeships should not be seen just as filling skills shortages and meeting employer needs; they should also be about training and giving young people skills that will help plug the gaps currently within the system, and equipping individuals to reskill and retrain in a fast-changing economy and labour market. As I said, the issue is social mobility but, as we have already heard, social mobility has become almost stagnant.

The Government's commitment to 3 million apprenticeships by 2020 is admirable. But if placements do not fulfil business needs, if quantity is preferred over quality, if standards vary and the placements are not achieving their objectives, then we must ask whether apprenticeships are working effectively. Are they fit for purpose to meet changing needs?

The current levy system is undermining the purpose of the entire strategy. Some up-skilling, particularly at lower skill levels, is less expensive to run through the system and may be more attractive in terms of volume. Evidence shows that two-thirds of apprenticeships are estimated to be merely "converting" existing employees and certifying existing skills. If these apprenticeships are not delivering the skills required, the levy is not doing its job either for business or for young people; neither are being best served.

There is also great difficulty for employers in using the system, especially if staff do not fit the compulsory apprentice profile. The system is overly complex, and staff such as agency or temporary workers who do not fit the apprentice template are unable to avail themselves of apprenticeship opportunities. Often, agency workers are filling a gap in the workforce and are unlikely to be in a position long enough to undertake training alongside the job itself. Reports have shown that there is underclaiming among employers who pay into the fund, with only 9% having claimed in the year 2017-18. Perhaps this mismatch between employers who pay in and the lack of staff who fit the profile are part of the reason; it would be helpful to know.

Standards were brought in by the coalition Government in 2013, but as of 2018 only 360 of a potential 600 have been approved. This leaves a marked lack of variation in apprenticeships. If we are to improve this aspect of apprenticeships, we need to know what is going on with the approval system and when approvals are likely to be completed.

Then there is the question of low take-up by minorities, which is around 10%. We need to know why the numbers are so low and what can be done about it.

Access to good-quality, appropriate apprenticeships should be a priority. But too many are failing to provide sufficient training or access to skilled work to enable progression; the focus is on numbers rather than hard, sustained work to improve quality. Numbers, targets and the apprenticeship levy have too often encouraged the creation of apprenticeships that are simply a rebranding of lower-level training, with companies accrediting the existing skills of their current staff. Students from lower socioeconomic backgrounds are less likely to go to university and more likely to drop out. To increase their career opportunities, there is a real need for quality apprenticeships.

As well as a lack of quality, there is a lack of awareness. According to the Sutton Trust, two-thirds of young people say that they would be interested in doing an apprenticeship, yet 40% say they have never had a discussion about apprenticeships with a teacher. There is a need for better awareness and careers advice and to dispel the perception that apprenticeships are a less attractive alternative to university. The Sutton Trust recommends that the Institute for Apprenticeships and the levy should have a widening access function to

ensure access to advanced and higher apprenticeships for those from less advantaged backgrounds, and that there should be adequate funding for apprenticeships in non-levy-paying employers. It also recommends a UCAS-style portal for admissions, which could be a step change for the further and higher education sector. Can the Minister tell the House whether the Government will give positive consideration to these recommendations, which are about widening access?

Finally, apprenticeships should be seen not just as something designed for skills for work but as a new type of qualification training, as part of the broader education and training landscape, equipping individuals for the changing nature of work and increasing the capacity of employers to adapt and improve skills and productivity at the pace the country needs. The time has come not just to improve the operation of apprenticeships but to make them less complex and more accessible and to see them as part of a broader further and higher education landscape, taking into account the changing landscape of employment. While any review should rightly look at the detailed operation of apprenticeships, looking at the approach, and making them more agile and dynamic, will be very important to meet the new needs of the country.

4.25 pm

Lord Monks (Lab): My Lords, I add my congratulations to my noble friend Lord Young on this initiative and securing this important debate on apprenticeships. I also welcome the generally positive, constructive tone on apprenticeships and the role they play in our society, which I think all speakers have demonstrated in their contributions. There has been plenty of critical support, and plenty of criticism, but overall this has been given in the context of supporting more being done and improved systems being developed for delivering apprenticeships.

As my noble friend Lord Layard said, vocational training has not been a British success story for some time. Institutions have come and gone. In my working life, I have been associated with: the industrial training boards; the Manpower Services Commission, which was a bit of a favourite of mine until it got swamped by high unemployment, which it had to concentrate on; and, in England, the Learning and Skills Council, which flared briefly before it was put to sleep. They all started brightly and enthusiastically, with good people driving them, but all have ended up in the Whitehall graveyard, having been regarded as institutional failures, with a lot of bewilderment out there about what vocational training and education really is and what institutions are around to deliver it. As several noble Lords have said, the contrast with higher education is absolutely glaring.

As we consider the current review of the apprenticeship levy, it is important to remember that we have a record of failures. It is important to ensure that we learn from those and that the current initiative does not end up in some gloomy Whitehall graveyard. It does not deserve to do so, despite some clear problems which have been referred to. The levy was a bold idea and an ambitious intervention in the British labour market in an era when there were not many interventions, except against trade unions. It needs buttressing and some determined,

[LORD MONKS]

enthusiastic support in this review to establish the objective of an apprenticeship culture and a clear system in our society and our country. I am not surprised that there have been problems, but I hope they do not weaken government or industry support for developing and pushing forward the apprenticeship route.

I know of some of these problems from the TUC, with which I am associated. One problem that has not been mentioned so far is the fact that some employers are frankly exploiting some apprentices. According to the Government's own survey of apprentices' pay, one in five are not receiving the legal minimum of £3.50 per hour. In some sectors the picture is far worse, with particular black spots being hairdressing, childcare, construction, health and social care and, perhaps surprisingly, sport.

In addition to these wage problems, there are other financial barriers. Many young people from lower-income families face pressure not to participate in an apprenticeship because eligibility for child benefit ends when they take one up, which is not the case if the young person continues in school or college. I certainly do not want to convey the impression that apprentices are being widely abused—they are not—but breaches of the rules are widespread enough to damage the attractiveness of apprenticeships in the eyes of some young people and their parents. Marketing people would say that the brand is being damaged if the backsliders are not brought into line.

Another area of concern, which others have touched on, is the quality of the training provided on some schemes. Astonishingly, the Government's own survey found that 30% of apprentices were not even aware that they were apprentices and that they were on a course. I found that absolutely astounding. Many in this category are in the poorer-quality schemes, or sometimes are existing employees recruited into an apprenticeship to upgrade their skills. The Government's move to regulate that apprenticeships must last at least 12 months has been a very welcome step and eliminated the very short apprenticeships that were developing rather quickly. It has undoubtedly reduced the quantity of apprentices, but I would choose quality over quantity in this respect every time. The average duration is now 17 months—still much less than the average in high-quality European neighbouring countries such as Germany, Austria and Switzerland.

It was a few years ago now, but I visited a motor mechanics' training centre in Vienna, supported by all the major car manufacturers with their dealerships in that city and region of Austria. They had wonderful facilities. What really surprised me was that most of the teaching was done in English, to level 2 and level 3 young people. They were working in English because the drawings, handbooks and so on were in that language. We should be aiming at raising our standards to these levels. That is the central task.

In addition, I would like to see widening access so that women, black and ethnic minorities and the disabled get a chance to access high-quality schemes, not just the ones at the lower end. Currently, only 4% of engineering apprentice starts are women, and women

and girls are disproportionately found in the lower-paid sectors, such as hairdressing and social care. This problem needs urgent attention.

I hope the Government will bear the many constructive points made in the debate in mind as they conduct this review. They must not throw the baby out with the bathwater, though, and instead concentrate their efforts on raising the status, and increasing the attractiveness, of apprenticeships. This means tackling abuses and low standards and developing a clear route so that teachers, parents and young people understand the way to go. It means working closely with unions and educational bodies and, of course, with better employers, who are crucial to raising the standards of the various offers. It also means being flexible and responsive to the points raised by employers about the administration of the scheme, for example by relaxing the time limits of when employers have to spend their levy payments, perhaps beyond the current 24-month limit.

Getting the balance right between flexibility and good administration is not easy and there is always a risk of abuse by the unscrupulous, but our basic message should be to rally round the great cause of promoting effective apprenticeships. Do not consign the concept to that Whitehall graveyard of failed institutions on vocational learning. It will take time to develop a culture in which an apprenticeship is the natural way for many people to go and equal to the best the academic world can provide, but let us apply ourselves with patience and skill to bringing about this much-needed change.

4.34 pm

Baroness Nye (Lab): My Lords, I thank my noble friend Lord Young for initiating the debate and displaying, once again, his long-standing commitment to the cause of apprenticeships. It is a little daunting to follow my noble friend Lord Monks, who has a wealth of experience in this field, but he and everyone else taking part in the debate share a commitment to apprenticeships, which help people of all ages to realise their full potential. I declare an interest as a trustee of the Young Women's Trust, a charity that supports young women aged 18 to 30—especially those struggling on low or no pay—in getting into work that is right for them. I will concentrate mainly on how apprenticeships can provide workplace opportunities for young women, but also on some of the difficulties that they face.

Last year, the Young Women's Trust commissioned research that found some optimism but discovered significant challenges and showed that apprenticeships are not working as well for young women as they are for young men. In the YWT ComRes poll, more than three-quarters said that they were struggling financially and had considered, or were, dropping out because they could not afford to continue and were in debt. That is because, as my noble friend Lord Monks said, the level of the apprenticeship minimum wage is a considerable hurdle for many young people taking up an apprenticeship. Among others, the Federation of Small Businesses has called for the apprenticeship minimum wage to be increased—albeit potentially in a phased way—to boost the attractiveness of apprenticeships as a career option for young people, including convincing their parents, who play an important role in young people's decision-making.

I hope that the Minister will say something in his speech about how apprenticeships are assessed on completion because there seems to be a concentration on the number of starts, but not on the end result or why people have given up. Apprentices with children, the majority being women, face almost insurmountable problems due to childcare costs. There are also cases of maternity discrimination, where apprentices are forced to leave by their employer when they become pregnant; there is an appetite for them among employers. In a survey of human resource decision-makers, carried out by YouGov, more than half the employers polled said that they would be willing to offer part-time apprenticeships. That figure rose to 65% in the public sector. What are the Government doing to promote the idea of part-time and flexible apprenticeships, which would go a long way to enabling parents to access apprenticeships?

It was disappointing to see from the poll that some employers continue to treat apprentices as second-class citizens, as my noble friend mentioned, with three in five apprentices saying that they were paid less than non-apprenticeship colleagues for doing the same work. If receipt of training is the justification for lower wages, that training needs to be of a high quality. For example, a 20 year-old level 2 customer service apprentice who talked to the YWT said that when there were staff shortages at Christmas, the extra hours were put on to the apprentices because they were cheaper. However, despite the extra hours worked, when the Christmas pot was shared out, the non-apprentice staff got the greater portion. She left that apprenticeship because she felt that she was being treated as cheap labour. She then got a national minimum wage job; it doubled her pay but she gets no training.

Many of the young women spoken to had no option but to live with their parents due to low pay, but that had a knock-on negative effect on the benefits that the family received. The Education Select Committee recommended that the Social Mobility Commission conducts a study into how the benefits system could address this issue. I would be grateful if the Minister could say whether the Government will act on that recommendation.

Another challenge was the cost of travel to work, especially in rural areas. The Education Select Committee's report also highlighted this and called for travel support, as did the 2017 Conservative Party manifesto. What progress has been made in meeting that manifesto pledge to introduce significantly discounted bus and train travel for apprentices? Some employers offer loans to apprentices to help cover rental deposits or annual travel passes. Will the Government consider building on that good practice by setting up bursary funds? Where employers are unable to meet those costs, the bursary would go some way to improving access for poorer apprentices.

Progression is also uncertain, as my noble friend Lord Layard mentioned. Two in five of the young women who completed an apprenticeship in the past two years are now unemployed or working in a sector not connected to their apprenticeship. If they finish their apprenticeship, women continue to earn less than men for years afterwards. For example, a man on a level 3 apprenticeship will

earn a median wage of £26,200 compared to £16,600 for a woman—a 50% difference in the man's favour. This goes back to what does or does not happen in schools. Careers advice must deal with the current gender segregation, where young women are directed into sectors with low pay and young men into higher-paid sectors with better training. While the numbers of male and female apprenticeship starts are almost equal, only 9% of female apprentices are in engineering and manufacturing, compared with 80% in health, public services and care. It would surely make a difference if there were more taster courses and work experience for young people, so that young women could visit male-dominated workplaces to see that there was no reason not to consider those occupations. For instance, the UK tech sector is growing 2.5 times faster than the overall UK economy, and will continue to grow, but only 19% of the people working in that industry are women.

Careers advice does not always sing the praises of the benefits of apprenticeships as a route to work and educational progression. The Sutton Trust report says that 40% of young people have never had a discussion with a teacher about apprenticeships, while the IPPR found that two-thirds of schools still flout the Baker clause. The Sutton Trust also recommends a UCAS-style portal for apprenticeship admissions, which would change the situation if the information is currently scattered and inconsistent. It would allow young people to make informed choices about the opportunities available to them and allow progression between the different levels. That UCAS-style portal is not only supported by Members of this House who have spoken this afternoon; it was another Conservative Party manifesto commitment. When the Minister talks about the other commitment, perhaps he can update us on this one too.

However, as my noble friend Lord Monks said, we should be more positive and be reminded of what a difference an apprenticeship can make if it goes as it should. I want to share the story of the Young Women's Trust apprentice of the year, 20 year-old Georgie Yates. After her A-levels, she started as an apprentice on the BBC's legal scheme. Initially, she lived at home and commuted for two-and-a-half hours to Manchester every day. She joined the BBC's next generation committee, which gave her an opportunity to give a presentation to the director-general about life as a BBC apprentice. She took that opportunity to tell him how hard it was to manage on an apprenticeship wage. He said that he would take up the issue and, from that meeting, all apprentices across the BBC received a 14% pay rise—you can see why she was the apprentice of the year.

Georgie is about to start her level 7 solicitor apprenticeship and will fully qualify as a solicitor in 2025. She says:

"It's genuinely not an overstatement to say that this apprenticeship has altered the trajectory of my life. I have learnt so much and being at work has given me a sense of stability, safety and value".

That sense of stability, safety and value is what we want for all young people starting apprenticeships at all levels. We must invest in the workforce of tomorrow if we are to close the productivity gap and boost our competitiveness. We need more stories like that of Georgie Yates.

4.42 pm

Baroness Osamor (Lab): My Lords, it is a great pleasure and privilege to participate in this important debate secured by my noble friend Lord Young of Norwood Green. Once upon a time in Haringey we had Tottenham Technical College, where our young people did apprenticeships as car mechanics, bricklayers, hairdressers, dressmakers, plumbers and carpenters. They were on day release and so on. The discipline and skills they acquired helped not only their own careers and families but everyone on and around the Broadwater Farm estate, especially when the council put forward a plan to pull down their homes amid tensions on the estate.

They organised professionally and persuaded the council to work with them to keep the estate open. They took leadership positions in the residents' association and set up a youth association to tackle anti-social behaviour. They reopened closed shops and set up an enterprise workshop, a co-op store, a nursery and a mothers' project. Help and recognition came from all over, including from our councillors, the late Bernie Grant, Jeremy Corbyn, who is now my leader, and a government Minister for Inner Cities, Sir George Young—now the noble Lord, Lord Young of Cookham. They recognised that the youth and the work they were doing needed encouragement. I organise alongside these dynamic young people, so I know the importance of employer-led training, both to improve life chances and to meet our growing skills gaps. For these reasons, it is imperative that Labour continues to support the apprenticeship levy.

That said, we are all aware that the current government apprenticeship programme has attracted significant criticism, including from the National Audit Office, for its ongoing failure to attract applicants—numbers have declined by 120,000—and to provide social progression and diversity. This is despite the Department for Education meeting its targets to widen participation among underrepresented groups, such as black, Asian and minority ethnic apprentices, as well as those with learning difficulties, disabilities or health problems. The reason for the criticism is that the targets set by the DfE lack ambition and are not sufficiently stretching. For example, the target for starts by BAME apprentices, at 11.9%, is lower than the working-age BAME proportion of England's population, at 14.9%, and much lower than the proportion of BAME pupils at the end of key stage 4, which is 20.7%.

The Public Accounts Committee has also called on the Government to prevent the apprenticeship levy system being misused by businesses to upskill existing employees. I would be grateful if the Minister could please explain: first, what steps are the Government taking to set and meet more challenging targets to increase the number of apprenticeships started by underrepresented groups; and secondly, what work is being undertaken to understand the barriers to entry for each different segment of these underrepresented groups?

A second reason why criticism has been levelled at apprenticeships is that there has been a marked shift from intermediate and advanced-level apprenticeships to higher-level, more academic apprenticeships, which

take the place of HE undergraduate degrees or simply upskill young people already in work. The proportion of starts at advanced level or higher has steadily been increasing, from 37% in 2011-12 to 57% in 2017-18. Given that a range of voices—trade unions, the Federation of Small Businesses, the Sutton Trust and so on—are calling for the Government to make changes, please could the Minister explain: first, what are the Government doing to tackle the significant decline in level 2 and 3 apprenticeship starts; and secondly, how do they plan to address the recommendations made by the Federation of Small Businesses, which, in its recent *Fit for the Future* report, said that the Government need to reduce the administrative burden to address a sharp decline in apprenticeships being offered by small and local businesses?

The unions have always argued that the Government's apprenticeship scheme is profoundly unfair because it excludes young people without five GCSEs at grades A to C. This immediately presents an advantage to people from privileged family backgrounds over those in poverty. In view of the findings of the Government's recent race disparity audit, can the Minister outline what the Government are doing to break down systemic and structural barriers to entry into apprenticeships? In particular, will the Minister confirm whether he has explored a personalised budget approach to apprenticeships, in which every young person has access to a fixed amount of funding to obtain whatever level of apprenticeship experience they need?

The unions have also run a national campaign arguing for apprentices to be paid fairly, so that young people from low-income households are not priced out of the scheme. Given that businesses such as Ikea already pay their apprentices the real living wage—£9 per hour with a London-weighted uplift of £1.55—will the Minister confirm when the Government plan to adopt the real living wage across the apprenticeship scheme?

4.51 pm

Baroness Garden of Frognal (LD): My Lords, I too thank the noble Lord, Lord Young, for introducing this debate and all those who have sent us informative and helpful briefings. There are too many to acknowledge but all have been read. The noble Lord is, of course, a real-life apprentice—as is the noble Lord, Lord Pendry—and is an enthusiastic supporter of apprenticeships. I go to any number of apprentice events and he is always there; I suspect he goes to others where I am not. I share his enthusiasm and can only wish that schools had more incentive to encourage their students into apprenticeships instead of their remorseless academic imperatives of GCSE, A-level and university. I agree with the noble Baroness, Lady Pidding: what are the Government doing to give schools reasons to promote apprenticeships and work-based skills and, indeed, the information and guidance about them which most teachers will not have? I share the concerns of the noble Baroness, Lady Cohen, about the Higher Education Bill and the Technical and Further Education Bill. I was leading for the Lib Dems on both and there was a notable disparity of interest in them. I also share the concerns of the noble Lord, Lord Monks, about the graveyard of previous initiatives; we know that so well.

One of the features of winding up in a debate such as this is that all the brilliant things that I was going to say have been said far more brilliantly by other speakers. I shall try not to repeat, but to add my weight to some of the issues which other noble Lords have raised. The levy has not met with undiluted enthusiasm. We hear that it is too complex, too restrictive and, as the noble Lord, Lord Norton, said, “not fit for purpose”. The Recruitment & Employment Confederation tells us that its members pay over £110 million into the apprenticeship levy every year but, because of the restrictive funding rules, it is a struggle to use this funding to train workers on flexible and temporary contracts. It estimates that, two years on, over £104 million is left unspent. As both the noble Lord, Lord Pendry, and the noble Baroness, Lady Prashar, set out, the vast majority of temporary and contract workers are automatically cut off from training opportunities through the apprenticeship levy. They cannot access training opportunities, while recruitment agencies are unable to use their funds beyond supporting the recruitment industry. Yet these people could benefit most from training opportunities. Why is the levy not designed to encourage agency workers to progress?

As the noble Lord, Lord Aberdare, and other noble Lords have said, there are strong calls for the remit to extend to other skills and training, rather than just apprenticeships. What is the Government’s thinking on this? If workplace opportunities are to be increased for young people, there needs to be much more flexibility regarding the support available. As the right reverend Prelate set out, with reference to the previous debate on mental health, we need to encourage disadvantaged young people. I support the noble Baroness, Lady Prashar, in her remarks on social mobility and the noble Baroness, Lady Nye, on support for women and drawing attention to gender disparities. The noble Baroness, Lady Osamor, reminded the House of the right range of apprenticeships and spoke of the BAME disparities.

We are getting mixed messages. On the one hand, the levy fees are apparently underspent. In 2017-18, levy-paying employers accessed only 9% of the available funds, which expire after 24 months. These funds should surely be available for other forms of training and skills development. On the other hand, I was told that a senior Minister recently declared that the apprenticeship money would run out in a few months. Concerns were expressed by the National Audit Office and others earlier in the year that the levy would not be able to meet employer demand and the pot is now indeed running dry. What is the position on this? Is it partly because the higher level 6 and 7 apprenticeships are costlier than levels 2 and 3, which were the original focus of the scheme?

In the Middle Ages, apprentices were young people who spent five to seven years learning their trade or craft. They then became journeymen and in due course, hopefully, masters of their trade or craft. This was, of course, before technicians were invented, although I have to say that some of the crafts were extremely technical. One of the great strengths of this was that they had a job to go to. These days we seem to have abandoned the idea of youthful learning and use the term “apprenticeship” to apply to much more advanced studies. I share the concern of the noble Lord,

Lord Layard, about the number of 18 year-old NEETs, and that of the noble Lord, Lord Young, about the drop between starts and completions. Apprentices of yore got qualifications as they studied. Now, there is not necessarily a mandatory qualification for an apprenticeship standard. We are told that an employer can use one voluntarily, including degrees, which may bear little relevance to apprenticeships.

We read:

“In apprenticeship standards, the apprenticeship itself serves as the qualification that accredits occupational competence, as measured by a robust, independent end-point-assessment”.

However, there will still be a need for formative assessment, measuring and reviewing progress towards achieving competence. One of the simplest ways of doing this is through qualifications, which have the great benefit of giving people a sense of achievement and the incentive to carry on. Endpoint assessment is not suitable for all skill areas. Continuous assessment, validated through a qualification, is often a much better way of measuring. What is the Government’s thinking on endpoint assessment? Is it still the preferred choice, despite evidence to the contrary in a number of occupations?

I support what my noble friend Lord Fox said about the creative industries. These are a real jewel in the crown of British industry, but they are unable to use a large part of the £75 million they contribute in the levy each year, in part because the 12-month employment does not fit the project and freelance work that is more common for them. Why cannot apprentices build credits towards their apprenticeship, as the OU allows for its degrees? Would that be worth exploring? Will the Minister also take account of the pilot project my noble friend mentioned in the creative industries?

The levy seems to have encouraged employers to brand adults embarking on MBAs and similar programmes as apprentices. Surely, that was never the intention. Others have referred to the fictional figure of 3 million apprentices, which we now know was based on back-of-a-fag-packet calculations. This focus on a meaningless number led to the chasing of quantity over quality and has not been helpful to the Government’s avowed aim of having only high-quality programmes admitted as apprenticeships.

Earlier this week we debated the Augar review, with its many recommendations for further education and work-based achievement—the Minister has been working overtime recently. We warmly welcome this focus on an essential part of education, which has, as we have heard all around the Chamber today, been neglected and undervalued for far too long. The apprenticeship levy may have been a neat idea, but it does not seem to be encouraging large employers to support small ones in recruiting apprentices. We hope that the review will lead to a drive to simplify, mindful that the country really does need young people to acquire the employment skills that will be ever more necessary for the economy if we do end up leaving the EU. Apprenticeships are not just good for the economy; they are good for individuals and the community too. We owe it to our future workforce to ensure that there are opportunities for rewarding, satisfying work.

[BARONESS GARDEN OF FROGNAL]

To address funding constraints there is a recommendation for a standalone non-levy apprenticeship budget of a minimum of £1 billion, to ensure that the 98% of employers not paying the apprenticeship levy have access to high-quality apprenticeships to help them drive their productivity. People need to be given the tools and skills to help them build their career. Despite significant levels of investment, our skills system has failed to have a decisive impact on the varying socioeconomic challenges and opportunities in local areas, or to make a major impact on outcomes. Part of the problem has been the churn in Skills Ministers, of whom we have had far too many over the years. Each time, they come in with a new brilliant idea which they never have time to implement, so the ideas go into the graveyard referred to by the noble Lord, Lord Monks.

Currently, national policy does not allow levy contributions to be fully pooled locally. Funds unspent within 24 months must be returned to the Treasury, rather than being retained locally, and this hampers efforts to have a more joined-up and strategic approach to apprenticeship spending in local communities. The apprenticeship programme should be an exciting way to support people, young and old, into productive, skilled employment. I hope that the levy and the different programmes will be reviewed to ensure that this aim is delivered, to the benefit of all.

4.59 pm

Lord McNicol of West Kilbride (Lab): My Lords, as a newbie just completing my first year in your Lordships' House, this feels a little like my apprenticeship, especially under the watchful eye of my noble friend Lord Stevenson and the departmental lead, my noble friend Lord Watson.

Apprenticeships can be a fantastic route into secure and meaningful work, and I am pleased that there seems to be a consensus on this across the House. As the noble Baroness, Lady Pidding, said, the aim of the scheme is laudable. However, there are simply not enough apprenticeships available, and many of those which are available are simply not of a high enough standard.

Too many apprenticeships are secured by older people rather than school leavers, as my noble friend Lord Layard mentioned earlier. The gender balance is not being achieved, and the shape of the curriculum, particularly at degree level, is obscured, as touched on by the noble Lord, Lord Norton. Also, concerns have been raised that particularly few apprenticeships have been taken up by those with disabilities, as well as by care leavers, LGBT people and those with a BME background, as noted earlier by the noble Baroness, Lady Prashar, and my noble friend Lady Osamor. Can the Minister say whether the Government have any plans to set targets to increase apprenticeships for people from often disadvantaged groups?

The wider issue of numbers is disappointing, particularly as many feel that the Government's apprenticeship policy has focused too heavily on quantity without ensuring that those who engage in the apprenticeship scheme emerge with qualifications that not only benefit them but are recognised by employers. With the Government missing the mark on numbers

of apprentices, it seems that they have little concern for apprenticeship completion or outcomes for learners, as was touched on by many noble Lords.

We must also remember that apprentices deserve a strong standard of on-the-job training, and that apprenticeships should not be used by employers simply as a way of paying workers less than the ordinary minimum wage. I am sure that many in the House will be aware of stories in the press about substandard schemes and the inquiry by the Commons Education Select Committee late last year, which found that many apprentices are not getting the high-quality training they deserve.

The Minister may be aware of the Labour shadow Education Secretary's proposal that the Institute for Apprenticeships and Technical Education report on an annual basis to the Secretary of State on the quality outcomes of completed apprenticeships to ensure that they deliver skilled workers for employers and real jobs for apprentices at the end of their training. Have the Government made any assessment of this proposal?

I turn to the apprenticeship levy. On this side of the House, as noble Lords have heard, we support the levy and understand the value it can bring to creating more apprenticeships. However, as many noble Lords have touched upon, we have a number of concerns about the implementation of the scheme. From a business perspective, it would be welcome if the Government allowed employers more flexibility in how the levy is deployed, including allowing it to be used for pre-apprenticeship programmes. For example, the creative industries play a crucial role in creating wealth for the country, but, as they have been saying for several years, the sector is predominantly freelance and cannot offer traditional apprenticeships. Can the Minister confirm that the Government will look into this? Recognising the role of small and medium-sized employers, which do not pay the levy, I would be grateful for confirmation that the £440 million funding for apprenticeships in this regard will be protected.

Remaining on the issue of education and training, it is disappointing that despite claiming to be committed to delivering high-quality training, the Government have cut funding for further education colleges, our main providers of adult and vocational education, while reducing entitlement for adult learners. The result, inevitably, has been diminishing numbers of courses and students. Ultimately, we need free, lifelong education in further education colleges, enabling everyone to upskill or retrain at any point in life, and also providing alternative routes into higher education—a system found in many other advanced economies but not the UK.

Our skills and training sectors have also been held back by repeated reorganisation, as my noble friend Lord Monks touched on earlier, which deprives providers, learners and employers of the consistency they need to assess quality and to deliver further and better outcomes. The Government need to stop trying to reinvent the wheel and focus on the funding issues around this. A number of noble Lords and noble friends mentioned the Augar report. Will the Minister confirm that the recommendations of the report are being considered?

Moving on to the broader issue of workplace opportunities and conditions, I suggest that noble friends across the House consider the recent *Stuck at the Start* report by the TUC, which identified five issues that young workers face in getting ahead at work. The report notes that they are disproportionately affected by wage stagnation, in low-paying jobs, lacking access to skills development, vulnerable to insecure work, and in need of a voice at work. Apprenticeships can be a solution to many of these problems, but there needs to be more of them, and they need to be of a high enough quality.

I will touch briefly on workers' rights. According to the Living Wage Foundation, more than 1 million young adults lack adequate working hours and pay to make ends meet, with millions of workers facing cancelled shifts. Trade union membership can and should be promoted to offer a collective voice for young workers to overcome these issues. In unionised workplaces the worst excesses and exploitations just do not exist. This is to the benefit of everyone: management, the workforce, and trade unions. The UK could begin by guaranteeing trade union representation in the governance structures of the Institute for Apprenticeships, and look at working with the National Union of Students, which campaigns on issues relating to the education which apprentices receive.

I will conclude with the opening arguments of my noble friend Lord Young of Norwood Green. If Her Majesty's Government can ensure that apprenticeships are well delivered, of a high enough educational standard, and run for the benefit of both the employer and apprentice, they will, as the 2012 Richard review stated, bring many benefits: to the economy, to employers and, most importantly, to individual apprentices, by providing a ladder into meaningful employment. On that I am sure the whole House can agree.

5.08 pm

Viscount Younger of Leckie (Con): My Lords, I am very pleased to be the Minister responding to this debate and I congratulate the noble Lord, Lord Young of Norwood Green, on initiating it. He is not only well informed on the subject, he has devoted much time over many years to improving opportunities for young people. We are all grateful for his work as an apprenticeship ambassador. I notice that he is not wearing the T-shirt today, but he certainly wears the badge. I should have one on too. At the Communication Workers Union and in this Chamber, he has been tenacious in ensuring that the Government's commitments on vocational education are not lost in the mail.

I applaud the endurance of the noble Lords, Lord Aberdare and Lord Layard, the noble Baroness, Lady Garden, and my noble friend Lord Norton of Louth, who, perhaps gluttons for punishment, are sitting for a second substantial debate in three days, having spoken on the order on Tuesday. Happily, this debate allows me to address today the issues on apprenticeships raised by them to which I was then unable to respond, although I have a lot of questions to cover. Talking of Augar and relevant to apprenticeships, it is important for the Government to reflect on the lessons of his review of post-18 education and funding. I reassure the noble Lord, Lord McNicol, that they are very much being considered.

Apprenticeships have a long and illustrious history, dating back to the craft guilds of the Middle Ages and underpinning Britain's status as the powerhouse of the Industrial Revolution. The guilds survive to this day, and their members do great work supporting charities up and down the country. Two apprentice stonemasons are currently working on the restoration of the Elizabeth Tower high above us, and others are no doubt working on our great cathedrals. How good to hear the positive feedback of Georgie Yates from the noble Baroness, Lady Nye. Apprentices are keeping our ancient skills alive with the help of our modernising apprenticeship programme.

For too long, however, young people and those changing careers have not had access to a choice of vocational education options; nor could they always be confident in the quality of training that they received. This Government's reforms are changing all that, and it is good to have acknowledgement from noble Lords, including the noble Baronesses, Lady Nye and Lady Osamor, that the Government are revitalising apprenticeships to raise productivity, to give employers the skills they need and to create fresh opportunities. We are creating a programme fit for the future, but all transformative change comes with challenges. We know that we need to maintain our focus on bringing new apprenticeship standards on stream, reflecting the needs of employers as the world of work evolves. As the noble Baroness, Lady Osamor, and the noble Lord, Lord McNicol, said, people from underrepresented groups need to be encouraged and supported to start apprenticeships to share in the benefits they offer. I will say more about that later.

As the noble Lord, Lord Layard, and others said, young people need good careers advice from a young age so that they are aware that apprenticeships are a genuine alternative to university. The noble Baronesses, Lady Nye and Lady Osamor, and particularly the noble Lord, Lord Monks, made the point that apprentices should not be treated as second-class citizens. They must be paid properly. I should like to hear from noble Lords of any examples where they are not. In answer to the noble Lord, Lord Monks, on whether we could confirm that there are plans to update the scheme so that it is in line with the real living wage, the current apprentice national minimum wage rate rose by 5.4% in April 2019 and is now at a record high in nominal and real terms. The apprentice national minimum wage is set at a rate that acknowledges the particular costs for employers and benefits for young people involved in the provision of apprenticeships. However, we know that most apprentices receive more than that—it is the legal minimum pay per hour—but no doubt it will be kept under review.

We must continue to spread the message among parents, teachers and employers of young people that our new high-quality apprenticeships can offer life-changing opportunities—a point made by the noble Lord, Lord Aberdare, and my noble friend Lady Pidding. In addressing the challenges, we are learning from the best international systems and listening to feedback from employers large and small.

There are successes. More than 450 apprenticeship standards are now available from levels 2 to 7 and covering occupations in all sectors. The standards

[VISCOUNT YOUNGER OF LECKIE]
 approved this month underline that diversity and include broadcast and media systems engineer at level 3, to mention the creative arts, and ecologist at level 7. Apprenticeship starts were up by 10% in the first half of 2018-19 compared to the same period a year before, and high-quality standards now account for almost 60% of those starts. Over the course of next year, we will be giving all employers, not just the larger companies, control over how they pay for their apprenticeship training and assess and recruit their apprentices.

The noble Lord, Lord Young, asked about training providers. Employers will also have access to a larger pool of training providers to deliver relevant training for them. Crucially, the apprenticeship levy supports businesses large and small to access the training they need. Alongside employers' levy funds, we will spend over £2.5 billion this year—double what was spent in 2010.

The noble Lord, Lord Layard, asked if the Government will reassess their approach to funding, providing 70% to levels 2 and 3 and 30% to levels 4 and 5, with the level band above that self-funded. Co-investment is a central principle of our apprenticeship performance, and we continue to monitor the impact of our recent changes to funding policy to reduce the burden on smaller employers. We continue to make this co-investment available for apprenticeships at all levels to give employers a choice of apprenticeships to meet their particular skills needs.

The noble Lord, Lord Young, asked whether I will comment on the struggle to meet targets for nursing apprenticeships—an important subject that I know was raised on Tuesday. Nursing apprenticeships offer a high-quality work-based route into the profession, giving more choice for career changes or for those who want to earn while they learn. Importantly, we are working closely with Health Education England to support the NHS to recruit the apprentices it needs to deliver high-quality care.

Almost half of apprenticeship starts were directly supported by levy funds in employers' apprenticeship service accounts last year. Smaller employers benefit from a generous co-investment from government of 95% of the costs of training. The rollout of the apprenticeship service will give these employers access to new online tools to manage their funds and make informed decisions for the long-term needs of their business.

In response to a question asked by the noble Lord, Lord Young, to support this, we have extended non-levy contracts with providers. This means providing £225 million to support new starts and £395 million to fund existing apprentices at non-levy employers. We have already made additional flexibilities available for levy-paying employers; flexibilities were quite a theme during this debate. This year, we increased the cap on transfers of their funds to other businesses, charities or apprenticeship training agencies to 25% of the value of funds entering their account each year—the noble Lord, Lord Young, mentioned 20%, but it is actually 25%—enabling them to support apprenticeship starts in their supply chain or to meet local skills needs. This is investment on an unprecedented scale,

and the levy is central to it. While we recognise that the move towards longer, higher-level apprenticeships presents financial challenges, we are determined to ensure the future sustainability of the programme.

The noble Lords, Lord Young and Lord Pendry, the right reverend Prelate the Bishop of Carlisle and the noble Baronesses, Lady Cohen and Lady Osamor, asked important questions about the need to promote level 2 and 3 apprenticeships, but it is important to remember that apprenticeships are jobs first and foremost. We have empowered employers to choose the apprenticeships that best suit their needs. Starts at levels 2 and 3 still make up the vast majority of the programme—82% of starts in the first half of 2018-19, which is quite interesting—creating the opportunities for progression to higher-level training.

The completion rate was another theme. The noble Lord, Lord Young, and the noble Baroness, Lady Nye, raised the Sutton Trust report showing that 32% of apprenticeships were not completed. It is important to recognise that the move to higher-quality apprenticeship standards is making apprenticeships longer. Current completion data reflects the fact that we are moving rapidly from frameworks to standards. It is a transitional phase, and we expect to see this picture improve as our reforms continue to bed in.

Several noble Lords raised important points about productivity. I turn to the reasons behind our reform programme: why are apprenticeships important and who are they for? This was asked by the noble Lord, Lord Aberdare. The labour market will change beyond recognition in the coming decades, not least with more automation—a point I raised on Tuesday. We need to meet that challenge by delivering high-quality vocational education for today's and tomorrow's workforce—and, yes, to satisfy employer demand—but apprenticeships are not only for young people but for people at different stages of their career.

The Government agree with Sir Philip Augar's finding that apprenticeships have a vital contribution to make to delivering our industrial strategy priorities helping young people to develop the skills that they need for progression to the high-skilled jobs of the future. We know from other leading apprenticeship systems worldwide that high-quality training drives productivity and increases earnings. We know that a young person completing a level 3 apprenticeship in England can expect a 16% earnings boost, and a joint AAT and CEBR study found that an apprenticeship at level 5 or above can be worth an additional £150,000 over a working life. So clearly it boosts the economy and the well-being of the individual as well.

While we are focused on driving forward our reforms and increasing starts to bring about these benefits, we will not sacrifice quality for quantity—a point made strongly by the noble Lord, Lord Young of Norwood Green. Apprenticeship standards are at the centre of our drive for high-quality training. Another theme raised in this debate was the question of quality versus quantity. The noble Lord, Lord Fox, asked if we agreed that we should scrap the 3 million start target and focus on quality. We are focusing on quality. The right reverend Prelate the Bishop of Carlisle focused on the importance of quality. We remain committed

to reaching 3 million apprenticeship starts, but are not worried that it may take some time to get there. What is more important is that we maintain our focus on quality to ensure that we meet the skills needs of employers and create the opportunities for young people to progress in their careers.

Before we began our apprenticeship reforms, employers told us that the quality of training was often inconsistent. We listened to their concerns and acted by putting the independent Institute for Apprenticeships and Technical Education at the service of employers to help them develop the standards they need and to act as a guarantor for the quality of training. We recognise that there have been some teething problems. Such problems were raised by the noble Lord, Lord Young, and the right reverend Prelate the Bishop of Carlisle, but I hope that I can reassure the House because we have overseen a significant acceleration in the process for the approval of standards, particularly using our so-called Faster and Better programme. As I have already mentioned, more than 450 standards are now available for employers to choose from, with more in the pipeline; they cover traditional skills, the professions and emerging industries.

We are proud of what these changes have achieved—two-thirds of apprentices were receiving good or outstanding training provision in 2017-18—but we know there is more to do. The noble Lords, Lord Aberdare and Lord Pendry, asked about Ofsted, saying that it is perhaps not best placed to regulate apprenticeships. We take Ofsted's judgments on the quality of the training and teaching offered by apprenticeship providers seriously and we have raised the bar for entry to the register of apprenticeship training providers. We now require all providers, new and existing, to demonstrate that they have a satisfactory inspection record. We are acting in cases where training providers fall below the high standards that employers expect, and recently announced a new framework to monitor the quality of provision at higher levels, to be led by the Office for Students.

The right reverend Prelate the Bishop of Carlisle said he had heard that some standards still did not have an endpoint assessment in place, which was another theme. ESFA recently confirmed that we will require an endpoint assessment organisation to be in place for all standards. That will give employers and apprentices the confidence that endpoint assessments are ready when they need them and of the quality that is required.

Off-the-job training is also vital for apprentices to develop the knowledge, skills and behaviours they need to succeed at work, which was a point raised by my noble friend Lord Norton and the noble Lord, Lord Young. We understand that some employers find meeting the 20% minimum off-the-job training requirement challenging. We have listened to their concerns. But as a perspective, the requirement in the UK has a smaller impact on employers compared with other OECD countries; for example, in Germany around a third of an apprentice's time is spent in off-the-job training. We recently launched new guidance to make these flexibilities clear and transparent for employers, and many are already using block release, successfully balancing their apprentices' training with business needs.

The noble Lords, Lord Aberdare and Lord McNicol, asked whether we would introduce further flexibilities to meet employer needs. I reassure the House that we continue to keep all aspects of apprenticeship funding policy under review to make sure that we continue to deliver high-quality apprenticeship starts. Spending on apprenticeships is demand-led. We do not anticipate that all levy payers will use all the funds in their accounts. Income from the levy is also used to fund apprenticeship training in non levy-paying employers.

The enormous potential of apprenticeships to address this country's productivity challenge cannot be realised if young people are not aware of all the options available to them. Our careers provision recognises that parity of esteem between academic and vocational routes also means giving those considering their options the best advice we can. We are working with schools and FE colleges through our apprenticeships support and knowledge programme, giving teachers the training to allow them to promote apprenticeships to their students.

My noble friends Lady Pidding and Lord Norton asked about numbers in terms of promoting apprenticeships. During National Apprenticeship Week in March there were more than 1,200 visits and events, including more than 300 events taking place to promote apprenticeships in schools. National Apprenticeship Week generated more than 25,000 visits, so it was an important push. That is an important point to make.

Our apprenticeships support and knowledge programme also provides access to a network of inspiring young apprenticeship ambassadors and apprenticeship live broadcasts to let young people speak directly to employers about the latest vacancies. The programme has reached more than three-quarters of a million young people since its launch in 2016. In addition, we have expanded the role of the Careers & Enterprise Company to give all young people access to inspiring encounters with the world of work.

I noted the comments made by the noble Lords, Lord Aberdare and Lord Monks, and my noble friend Lady Pidding. It is very important that the evidence for getting into schools has to be there. It is clear that sustained and varied contacts with mentors, coaches, employer networks, FE colleges and training providers can motivate pupils to consider a broader and more ambitious range of future education and career options.

The noble Lord, Lord Aberdare, asked what we are planning to do to meet the demand resulting from the careers strategy and the planned introduction of T-levels. A key element of T-levels is a high-quality, structured industry placement of 45 days. There is an extensive programme of support in place for their delivery, including a capacity and delivery fund for providers and the investment of £5 million in the National Apprenticeship Service.

The noble Lord, Lord Aberdare, also asked whether the Government should make funding available for work placements as they do for apprenticeships. Under the Government's careers strategy we have targeted a £2.5 million investment fund to support employer encounters. This is in addition to the £5 million investment already mentioned.

[VISCOUNT YOUNGER OF LECKIE]

Last year, we acted to introduce a legal requirement for schools and colleges to allow technical education and apprenticeship providers into their schools to talk to pupils about their offer, commonly known as the Baker clause. I notice that my noble friend is no longer in his place. This important matter was raised by the noble Lords, Lord Young and Lord Aberdare, the noble Baroness, Lady Nye, and my noble friends Lord Norton and Lady Pidding. This is important because we expect all schools to comply with its requirements and are intervening directly to enforce this where necessary. I have here a letter that I have written to reassure my noble friend Lord Baker that the department is doing a great deal to increase the level of compliance among schools with their duty under the Baker clause. Certain direct intervention measures have been taken; for example, Minister Milton wrote to the five largest multi-academy trusts which were found not to be complying with the duty. Local authorities, regional schools commissioners and MPs have also been written to, to remind them of the important role that they play in encouraging schools to comply with the Baker clause. The department has also delivered key messages on the aims of the Baker clause and its enforcement over the past year, including delivering a webinar for 500 schools during National Careers Week. I assure noble Lords that we will remain on the case.

As the noble Lord, Lord Monks, said, changing the perceptions of parents and employers is just as important if we are to embed a culture of apprenticeships in this country. We are taking on the outdated perception that university is the only desirable option for ambitious, motivated young people. This message is at the centre of our new marketing campaign, Fire It Up, demonstrating that apprenticeships are an aspirational choice for anyone with passion and energy. We have also launched Opportunities Through Apprenticeships, a pilot project working with four local authorities to raise the value of apprenticeships in the most disadvantaged areas.

We are committed to ensuring that no young person's background stands in the way of starting an apprenticeship. To reassure the noble Baroness, Lady Osamor, in the first half of 2018-19, 11.1% of starts—that is, 23,700—were by people of black, Asian or minority-ethnic backgrounds. In the first half of 2018-19, 11.9% of starts were by those with a learning difficulty or disability. She raised an important point.

Various questions have arisen but I am running slightly out of time. If I am allowed, I shall spend—

Lord Young of Norwood Green: I hesitate to intervene because the Minister has given a very comprehensive response. However, one important question is whether the levy funds have run out. It was raised by one or two speakers and there is quite a bit of confusion out there. If he could clarify that now, it would be appreciated. If not, there is the other route.

Viscount Younger of Leckie: Yes, that is absolutely right. I reassure the noble Lord and the House that the levy funds have not run out, although they are now being spent at a higher rate. I also reassure the House that this is certainly being looked at in the context of

the spending review. I can give no guarantees whatever but an eye is being kept on it, given the importance of the apprenticeship programme.

The noble Lords, Lord Layard and Lord Aberdare, who deserve answers to all the questions they raised on Tuesday, asked whether the Government would consider broadening the levy so that it funded not only apprenticeships. The levy was introduced to support the apprenticeships that we expect employers to generate, and it is important that we maintain our focus on funding high-quality training.

The noble Lords, Lord Young and Lord Fox, said that there seemed to be no transparency in the levy review and that it was perhaps rather secretive—a point also made by others. The levy review is not a formal published consultation, but the evidence that we garner from employers will help the Government to understand the issues facing employers and build our evidence base as we make decisions on the spending review.

I conclude by saying that the most recent OBR analysis suggests that the picture for productivity growth, which has been an important theme today, is increasingly positive, and apprenticeships will have a vital role to play as this trend continues. There will still be challenges along the way, but we are determined to continue our work with employers, respond to their concerns and build a programme ready for the challenges ahead.

5.32 pm

Lord Young of Norwood Green: My Lords, first, I congratulate the Minister on giving a comprehensive reply. He might not have completely covered the waterfront but I am sure that he will respond with written answers where he has not.

I take this opportunity to thank everybody who has participated in the debate. The contributions were fascinating. They were eclectic and constructively critical, and a lot of good ideas were put forward. I am conscious that I am the only thing stopping the House adjourning, so I will not attempt to cover every aspect of every contribution, but they certainly gave me food for thought in a number of ways that I had not considered concerning our approach to apprenticeships and how the levy should be used.

I do not want us to have an either/or debate on whether it is vocational training, an apprenticeship or the university route. When I talk to young people as part of the Lords outreach programme—to 16 and 17 year-olds and sometimes younger—I say, “Look, it's not an either/or choice”. Some will start on apprenticeships and then go on to take a degree. I stress that they are making a pretty key choice and that they should choose wisely. If they are going down the university route, it is quite an expensive one. As other noble Lords have said, a benefit of apprenticeships is that apprentices can earn while they learn; for some young people, this is crucial.

I will pick out one issue that was raised a number of times, by the right reverend Prelate and others. I am not sure that the Minister covered it, and I come across it again and again: travel costs. As I looked in my pocket, I was just thinking, “I have this thing called a Freedom Pass. It is a nice little perk that I do

not really need—I can afford to travel—but young people should have the benefit of one while travelling for an apprenticeship”. If you go into further education colleges and speak to students about the issues they face, travel costs come almost top of the agenda. I do not want to end on this point, but it was not quite addressed.

Once again, I thank everybody for their contributions and the way they made them. They have given the Minister a lot to think about.

Motion agreed.

House adjourned at 5.35 pm.