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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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The following abbreviations are used to show a Member's party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
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

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

House of Lords

Monday 21 September 2020

The House met in a hybrid proceeding.

1 pm

Prayers—read by the Lord Bishop of Worcester.

Arrangement of Business

Announcement

1.06 pm

The Deputy Speaker (Lord Lexden) (Con): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber respecting social distancing, others are participating remotely, but all Members will be treated equally. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

Oral Questions will now commence. Can those asking supplementary questions please keep them short and confined to two points? I ask that Ministers' answers are also brief.

Nigeria: Religious Violence

Question

1.07 pm

Asked by ***Baroness Cox***

To ask Her Majesty's Government what assessment they have made of the report by the All-Party Parliamentary Group for International Freedom of Religion or Belief, *Nigeria: Unfolding Genocide?*, published on 15 June.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, the Government welcome the report and the detailed analysis of complex issues of intercommunal violence and terrorism in Nigeria. We condemn all incidents of violence and call on the Nigerian Government to do more to protect victims and hold perpetrators to account. The UK Government's formal response to the report will emphasise our approach of supporting solutions that tackle the causes of conflict to reduce violence affecting Christian and, indeed, Muslim communities.

Baroness Cox (CB) [V]: My Lords, I thank the Minister for his reply, but we cannot ignore the chilling signs of the potential genocide in Nigeria. According to the International Committee on Nigeria, Islamist Fulani herders have killed 19,000 people across the country's Middle Belt. I have visited four of the devastated villages in Plateau state and stood in the house where they had murdered the pastor.

Therefore, given the escalation, frequency, brutality and asymmetry of such attacks on Christian communities—and, indeed, Muslims—is it not time to give greater effect to our obligations as a signatory to the 1948 genocide convention and our duty to protect?

Lord Ahmad of Wimbledon (Con): My Lords, I agree with the noble Baroness that this is important. I pay tribute to her work in Nigeria, and to that of others in your Lordships' House. We condemn incidents of violence where religion is erroneously used to justify the worst of crimes and acts of terrorism and extremism. On genocide, as the noble Baroness will know, it is the UK Government's policy not to unilaterally determine whether genocide has occurred, in line with the genocide convention. As she will know and as I have often said, this is a matter for competent courts and tribunals.

The Archbishop of Canterbury [V]: My Lords, like the Minister, I am grateful to the noble Baroness for raising this issue; she is tireless and fearless in standing up for the weakest and most vulnerable. While the issues of genocide are often ones of legal terminology, the situation in Nigeria is one of large-scale killing in many areas across all communities and for a wide variety of reasons, not all of which are religious. Would the Minister say how the very large numbers of UK passport holders in Nigeria—most with dual citizenship and families here—are protected and informed of the situation? Would he also say what priority the establishment of reconciliation will get in the allocation of overseas aid in the new department?

Lord Ahmad of Wimbledon (Con): My Lords, first, I fully align myself with the remarks of the most reverend Primate and pay tribute to him for his tireless efforts on conflict resolution, not just in Nigeria but around the world. As he knows from our discussions, I share many of the views that he has articulated. On his specific questions, we are developing a new conflict, security and justice programme, which aims to reduce levels of violence through the development of more effective conflict-management systems, working in conjunction with key partners on the ground. On the issue of British nationals, apart from the focus on conflict management, we continue to update travel advice to inform British nationals intending to travel to Nigeria, providing, in particular, specific travel advice for different states within Nigeria.

Lord Farmer (Con): My Lords, the Government continue to downplay the scale of the suffering endured by Christians in central belt states. Ministers refer to attacks by Fulani herders as

"a consequence of population growth".—[*Official Report*, 11/7/19; col. 1958.]

They have also referred to them as a consequence of "land and water disputes". This does not reflect the reality on the ground, identified by local observers as a campaign of ethno-religious cleansing. Will the Minister ensure that the Government revisit the characterisation of this violence to acknowledge the significance of the perpetrators' ferocious ideology?

Lord Ahmad of Wimbledon (Con): First, I assure my noble friend that, as he will know, the Government fully endorsed an inquiry into Christian persecution, and we are carrying out every single recommendation that my right honourable friend the Prime Minister agreed. We will continue to work with the Bishop of

[Lord Ahmad of Wimbledon]
Truro, who oversaw that particular inquiry. I share his concern that, yes, any conflict in Nigeria is exploited. Unfortunately, as I said in my original Answer, it is exploited by those divisive voices who erroneously use religion to divide people, and we will continue to condemn all acts of violence, particularly those against Christians and other communities in Nigeria and, indeed, elsewhere.

Lord Curry of Kirkharle (CB) [V]: My Lords, I also thank the noble Baroness, Lady Cox, for her commitment to this cause. The all-party group report is a stark warning. What are we are doing in the UN Security Council to prioritise these serious concerns—which now appear endemic in Nigeria—and to seek a resolution that significantly enhances the security given to communities at risk of attack? Can the Minister reassure the House that we are actively pursuing this in the United Nations?

Lord Ahmad of Wimbledon (Con): My Lords, I assure the noble Lord that we continue to look at the issue of the freedom of religion or belief with partners in the UN. Indeed, I am currently working towards a possible resolution, or certainly a debate, during our presidency, on freedom of religion or belief—in which I am sure Nigeria will feature.

Lord Anderson of Swansea (Lab): My Lords, it is clearly beyond the capacity, or perhaps the will, of the Government of Nigeria to end the conflict and ethnic cleansing. Have they sought any external advice or assistance from the Commonwealth or the British Government, and are we prepared to act if our advice is sought?

Lord Ahmad of Wimbledon (Con): My Lords, we are working with the Government of Nigeria, and with NGOs and faith NGOs on the ground, such as Christian Aid and the Catholic Agency for Overseas Development, to support communities--particularly those that have been displaced--and we will continue to do so.

Baroness Northover (LD) [V]: My Lords, Amal Clooney has just resigned as envoy on media freedom because of the Government's statement that they may not respect an international treaty that they have just agreed and signed. What challenge does this situation pose for the Minister as he makes the UK's case for media freedom and freedom of religion and belief, including in relation to Nigeria, at UN bodies and elsewhere?

Lord Ahmad of Wimbledon (Con): My Lords, I remain resolute in standing up against human rights abuses in whichever forum I attend, and will continue to do so on behalf of Her Majesty's Government.

Lord Polak (Con): The singer Yahaya Sharif-Aminu has been sentenced to death by hanging in the northern state of Kano. Will the Minister contact the Nigerian Government to ensure that due process is followed? Although there is a ban on FGM in Nigeria, with girls out of school due to Covid the risks to 10 to 15 million girls are extremely high. The failure to help end FGM will deepen poverty and create more insecurity. Will the Minister agree to meet the Five Foundation and Nimco Ali to discuss this and ensure that funding from the FCDO for ending FGM reaches programmes that will have a real impact on achieving this important aim?

Lord Ahmad of Wimbledon (Con): Let me assure my noble friend that I agree with both points he has raised about this issue with regard to that case. I will follow that up and take the meeting that he has proposed.

Lord Collins of Highbury (Lab): My Lords, will the Minister also comment on another individual case, that of Mubarak Bala, president of the Nigerian humanist association, who has been held on blasphemy charges since April? He has not had access to a lawyer or been allowed family visits since being arrested. I know that the noble Lord is aware of this case, because it was raised at ministerial level back in May or June. What steps is the noble Lord taking to ensure that Mubarak Bala is given access to his legal team? If there is to be any justice at all, this arbitrary detention for 87 days without charge must end.

Lord Ahmad of Wimbledon (Con): My Lords, I agree with the noble Lord and I am fully aware of the case. We continue to make representations and to ensure that Mr Bala gets the access mentioned by the noble Lord.

Lord Alton of Liverpool (CB): My Lords, will the Minister comment on two urgent matters about which I have given him prior notice? The first is the targeted slaughter of Igbos and occupation of their villages in south-east and southern Nigeria by jihadist Fulanis and mercenaries. The second is the repeated interrogation of and death threats directed at Dr Obadiah Mailafia, an economist and former deputy governor of the Central Bank of Nigeria, after he publicly exposed state collusion with Fulanis in ethnic and religious cleansing in southern Kaduna and the Middle Belt?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Lord's first point, we will continue to call for a full investigation to hold the perpetrators to account, and to implement long-term solutions, particularly, as the noble Lord mentioned, in relation to people in the south-east of the country. On Dr Obadiah Mailafia, the former deputy governor of the central bank, we have already touched on media freedom, and it is vital that we stand up for the importance of individual media freedom. When freedom of expression is restricted or under threat, human rights are generally challenged. I assure the noble Lord that we will continue to engage on this case and others like it.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the time allowed for this Question has now elapsed.

Retail Businesses: Financial Support

Question

1.18 pm

Tabled by ***Lord Allen of Kensington***

To ask Her Majesty's Government what steps they are taking to provide financial support to retail businesses which have been categorised as 'undertakings in difficulty' under European Union state aid rules, and are unable to access support under the Coronavirus Business Interruption Loan Scheme; and what assessment they have made of the effectiveness of any financial support that they have provided to such businesses.

Baroness Andrews (Lab) [V]: My Lords, on behalf of my noble friend, and with his permission, I beg leave to ask the Question standing in his name on the Order Paper.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): The Government amended the CBIL scheme on 30 July to exempt smaller businesses from elements of the undertaking in difficulty test. The British Business Bank has also clarified that if an applicant was not classified as such from the application date, but was so on 31 December 2019, they would, in principle, be eligible. By 16 August more than £53 billion had been approved through the loan schemes, including 60,409 loans worth £13.68 billion through CBILS.

Baroness Andrews (Lab) [V]: My Lords, the changes for small businesses that the Minister mentions are very welcome. Does he agree with me, however, that it is the larger stores that face the greatest difficulties? Over 13,000 stores have closed in the year to date and 125,000 retail staff have lost their jobs. One in three of retail staff are aged under 25, and 146,000 of them have lost their jobs in the last quarter. In the light of potential further restrictions, will the Government look urgently at providing more access to finance and at extending business rates relief and the furlough scheme, in a targeted way, to stem the further collapse of retail and, indeed, the high street itself?

Lord Callanan (Con): We continue to keep all these things under review. I hope that the noble Baroness will appreciate that our response so far has been tremendous. The Bounce Back Loan Scheme has supported nearly 1.2 million loans; the Coronavirus Business Interruption Loan Scheme has supported more than 60,000 loans, worth £13.7 billion. There are, of course, always additional things we could be doing but I hope she will acknowledge that we have done a lot for this sector.

Baroness McIntosh of Pickering (Con): My Lords, many of the businesses that have not been able to claim have also been impacted by the lack of insurance cover, even though they thought they were covered. Can my noble friend use his good offices to intervene to make sure that, at the very least, they can claim on the insurance for which they have paid premiums? Also, has he looked at the impact on the night-time economy—pubs, clubs, casinos and such—if the curfew imposed in certain areas is extended for any length of time?

Lord Callanan (Con): Insurance cover is a matter of commercial contracts between providers and the insured; it would not be right for us to interfere in a contract that was lawfully made. My noble friend will understand that I am unable to comment on the possibility of any curfews at the moment.

Lord Loomba (CB) [V]: My Lords, as the pandemic continues to progress and more restrictive measures to counteract it are being considered, what assessment have the Government made of the long-term viability of financial support to help businesses survive for longer periods?

Lord Callanan (Con): The noble Lord will be aware that, by 16 August, the Future Fund to help businesses had supported 590 investments with a total of £588 million.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, a number of measures aimed at preventing company insolvencies, included in the recent Corporate Insolvency and Governance Act, expire at the end of this month. What plans do the Government have to extend those provisions? Can the Minister set out the new timetable?

Lord Callanan (Con): The noble Lord makes a good point. We are urgently considering the need to extend these measures and will announce a decision shortly.

Baroness Burt of Solihull (LD): My Lords, that is very good news from the Minister. While we welcome the changes to the temporary framework and the definition of "undertakings in difficulty" earlier this year, the fact is that some small businesses are still falling through the cracks. What further work are the Government doing to ensure that businesses acutely impacted by Covid—especially retail—can access the finance they need to make it through?

Lord Callanan (Con): I would hope that, through the changes we have announced, the vast majority of small businesses are able to access the finance they need, but of course, we keep these matters under constant review. We are aware that the schemes were put together very quickly, and there will always be some businesses that fall through the cracks, but the Chancellor is looking at these matters urgently.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, the Question in the name of the noble Lord, Lord Allen, illustrates the inequity in some areas of financial support following the spread of the virus. The Government have pre-empted my original question, of which I gave the Minister notice, requesting improved support for those self-isolating in the north-east. I would like to think that the £500 grant is a response to that. I welcome this additional support and ask if the grant also applies to those wanting to self-isolate on return from a listed foreign country.

Lord Callanan (Con): I thank the noble Lord for his support for our £500 payments. I hope that that will be sufficient at the moment but, as with all these schemes, we will keep it under review.

Baroness Warsi (Con) [V]: My Lords, I welcome the changes in July which now enable more struggling businesses to access the Government-backed CBILS loans. Have the Government, in the run-up to Brexit, engaged with UK businesses for whom EU public or private sector contracts are their only, or main, form of business? I have raised this question with my noble friend before, but I am increasingly concerned as we approach deadlines.

Lord Callanan (Con): I know that my noble friend is concerned about this matter and she is right to raise it. We will continue to engage with the business sector to find out what we can do to help those who are increasingly reliant on EU contracts.

Lord Holmes of Richmond (Non-Afl): My Lords, in general, what analysis have the Government undertaken of other member states' use of state aid, what insights have been gained from that and what changes are the Government considering in the light of that?

Lord Callanan (Con): We are, of course, willing to learn from the example of other countries. However, as my noble friend is aware, all existing member states, and the UK during its transition period, continue to operate under the same state aid framework.

Lord Cotter (LD): My Lords, we are a nation of shopkeepers, and small outlets are the heart of our local community in Weston-super-Mare. Should the Government not have a special plan to help them? When can we expect one? Business rates are the predominant issue of concern.

Lord Callanan (Con): My Lords, the noble Lord is right to be concerned about the high street, and I am sure that Weston-super-Mare is no exception. As he will no doubt be aware, we abolished business rates for 12 months for all eligible businesses in the retail, hospitality and leisure sectors. That support was worth almost £10 billion. We also gave local authorities grants worth £11 billion to distribute to help local businesses.

Baroness Wheatcroft (Non-Afl) [V]: My Lords, retail is a dynamic sector that was undergoing radical change even before Covid hit. The rise of internet shopping has changed the shape of retail. Does the Minister accept that there is no point in propping up retail businesses which would not have survived the course anyhow? Perhaps the Government ought to be looking at helping more community shops get under way so that, particularly in rural areas, people can get what they want on their doorsteps.

Lord Callanan (Con): The noble Baroness is right to draw attention to the massive changes taking place in the retail sector, some of which were exacerbated by the Covid dynamic. There has been a lot of switching to online shopping, but many high street premises are engaged in online business as well. So, there is a vast range of innovative things happening throughout the sector.

Lord Dholakia (LD): My Lords, a number of small retail businesses are owned by people from ethnic minority communities. What consultation has taken place with their professional bodies? Can the Minister produce a list so they can see how to survive the present crisis?

Lord Callanan (Con): We continue to engage with professional organisations from all sectors. The Covid support schemes, including the loan guarantee schemes, are designed to be as accessible to as many businesses as possible, including, of course, BAME businesses.

The Deputy Speaker (Lord Lexden) (Con): My Lords, all supplementary questions have been asked and we now move to the next Question.

Health Care: Guidance

Question

1.29 pm

Asked by ***Lord Balfe***

To ask Her Majesty's Government what guidance they have issued since the end of May 2020 to hospitals, General Practitioners and other health care providers about giving appropriate treatment to different patient age groups.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, I make this point very clearly. The NHS provides a comprehensive service available to all, irrespective of gender, race, disability or age. No guidance has been issued on the provision of appropriate treatment based solely on age. The NHS has issued guidance for the restoration of non-Covid-19 health services, working on the principle that the most clinically urgent patients should be seen first, followed by those who have been waiting the longest.

Lord Balfe (Con) [V]: I thank the Minister for his reply. He will be aware that there have been letters in the *Telegraph* and elsewhere, saying an advisory age of 75 is being brought in. First, is any age guidance given in any of the information sent out by his department? Secondly, will he agree to place a copy of all the circulars from the DHSC in the Library so that we can see what is going out?

Lord Bethell (Con): My Lords, I can confirm clearly that reports of any sort of age limit of the kind referred to by my noble friend are completely wrong. On the matter of sharing circulars, there will be certain practical challenges to that, but I will inquire as to what we can possibly share, so that these decisions are as transparent as my noble friend wishes.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, the distinction between different patient groups has particularly affected care home residents through the blanket use of "do not resuscitate" orders without explanation to patients and families. Will the Minister make clear his abhorrence of this practice, and can he say how he will ensure that the recent winter guidance in relation to this for adult social care will be followed in full?

Lord Bethell (Con): My Lords, there are no blanket DNR notices. These are completely abhorrent and against the NHS constitution. We are not supporting them at all. The noble Lord is entirely right that families should be consulted before any such measures are put in place. The social care plan published earlier this month makes that absolutely clear.

Baroness Walmsley (LD) [V]: My Lords, young people have been hit hard by Covid-19, if not physically, then mentally and emotionally. They may be caring for someone who is either sick or vulnerable and therefore isolating. What is being done to ensure that young carers continue to get support during the pandemic—especially in the light of further restrictions—both for their caring duties and for their own mental health and well-being?

Lord Bethell (Con): The noble Baroness is entirely right to focus on the plight of young carers, who play an incredibly important role in society at any time, and who are under profound pressure, particularly when isolating during this epidemic. Substantial financial support has been given to local authorities to provide their social care services with the additional funds necessary to support such cases, and we continue to work through our charity partners to ensure that young carers are supported.

Baroness Altmann (Con): My Lords, I congratulate the Government on avoiding the temptation to discriminate on the grounds of age in connection with this coronavirus illness. The original guidance suggested that a person was vulnerable just because they were over 70, and I welcome the clarification. Could my noble friend assure the House that the Government do not intend to introduce blanket age restrictions and that the individual medical conditions of each person will be taken into account, rather than just age?

Lord Bethell (Con): My Lords, I reiterate the point I made earlier in response to my noble friend's quite reasonable remarks on the importance of fairness when it comes to age: blanket age restrictions play no role in the NHS and are overtly against the constitution.

Baroness Finlay of Llandaff (CB) [V]: My Lords, I declare that I chair the National Mental Capacity Forum and am an elected member of the BMA ethics committee. All treatment decisions must be individualised based on the likelihood of benefit to the person, considering their wishes and feelings, without prejudice of age, disability or other pre-existing conditions. Will the Government continue to work with the forum to ensure this is known and understood properly across health and social care in all sectors?

Lord Bethell (Con): The noble Baroness puts it extremely well: all treatments should be individualised and tailored to the patient's needs and requirements. I applaud the work of the forum. We are committed to continuing that work, and it is an important part of our correspondence with trusts that these standards are upheld and advertised.

Baroness Wheeler (Lab): My Lords, the Minister will be aware of widespread concern that NHS measures introduced in response to Covid-19 are having serious consequences, with patients denied basic healthcare. Almost half of the 102 million GP consultations between March and July were delivered by phone or video, in line with government guidance to deliver a predominantly remote service. What steps are the Government taking to ensure that vulnerable people, especially the elderly, are not shut out from surgeries under measures introduced to stop the spread of the virus this winter? The reality is many are not online, they struggle with complex information systems and will face further difficulties if they are once again advised to isolate.

Lord Bethell (Con): The noble Baroness is right that half of consultations have been done by telephone or on the internet. Some of those have been successful, but I agree with her that we have to keep GP surgeries open for those who either choose or need face-to-face consultations. That is why the NHS chief executive has written to CCGs and trusts urging them to be open and to have fair access to face-to-face consultations where necessary.

Lord Rennard (LD): My Lords, I refer to my entry in the register of interests. Older people are more vulnerable to complications from the virus. Many more of them will have diabetes, and many more will feel that they need cancer treatment urgently. So why are so many older people still worried that they might be treated less favourably by the NHS due to their age? In particular, will the Minister explain how the backlog in treating cancer patients will be dealt with?

Lord Bethell (Con): The noble Lord is entirely right that there is a large amount of concern among patients—existing patients who are on existing programmes and patients who think to go to the NHS. We are launching a "Help Us Help You" campaign at the beginning of October, which will be a substantial marketing campaign to reassure patients who might be concerned that the NHS is open and there to help them.

Lord McCrea of Magherafelt and Cookstown (DUP) [V]: My Lords, during this Covid crisis, many others are suffering greatly yet feeling neglected, such as cancer patients awaiting urgent treatment. There has also been a rise in suicide across every age group. What advice is the Minister's department giving to hospitals, GPs and other health providers in tackling these things?

Lord Bethell (Con): My Lords, mental health concerns are a major priority at all times but particularly during Covid-19. That is why are giving substantial funds to

[LORD BETHELL]
mental health charities and supporting the work of the mental health trusts that oversee this area, and I commend their work during Covid-19.

Baroness Gardner of Parkes (Con) [V]: My Lords, having been a NHS dentist for many years, I was disappointed that dentists were not allowed to keep their practices open during the lockdown period. A number of people sought my advice, which may have helped them but may not have. In past cases where there has been cause for alarm, in dentistry, like in every other part of the medical profession, they arranged a rota system. The dental profession still has these wonderful boards for local dentists to decide how and when each one would take a turn in providing the necessary services. It has gone very badly this time; I have met so many people who are desperate for a dentist and cannot get one anywhere. What can the Minister do about it?

Lord Bethell (Con): My Lords, the challenge faced by dentists has been profound. The challenge of contagion in a dental practice is big and challenging. But I commend dentists who have gone to huge lengths to put in PPE and hygiene arrangements so that they are able to reopen. The scale of reopenings is enormous, but there is an enormous backlog, and we will be providing support for dentists to help them meet the scale of that backlog.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the time allowed for this Question has now elapsed.

Probation Workforce Strategy

Question

1.40 pm

Asked by ***Lord Ramsbotham***

To ask Her Majesty's Government how many probation staff will be needed to implement the *Probation Workforce Strategy*, published on 30 July.

Baroness Scott of Bybrook (Con): My Lords, the *Probation Workforce Strategy* outlines our investment in the probation workforce, which supports its vital role in reducing reoffending. We are committed to recruiting 1,000 new trainee probation officers in 2021, with an additional 530 already in training. We will invest in the skills and professional development of our workforce as part of the Government's efforts to make this country safer, alongside the recruitment of 20,000 more police officers and 10,000 new prison places.

Lord Ramsbotham (CB) [V]: My Lords, I sympathise with the Minister and welcome her to the Dispatch Box; she has not had much time to master the subject. I must admit that I find it simply amazing that the Government should publish what they call a "workforce strategy" document without stating the size of that workforce. Without knowing its size, how can anyone involved in recruitment or training know the size of the shortfall and therefore whether the strategy is working?

Baroness Scott of Bybrook (Con): My Lords, as of 30 June 2020, the National Probation Service employed 9,383 staff in post, full-time equivalents. That included 3,613 probation officers and 2,546 probation service officers. So we do know how many people we employ; the 1,000 are over and above those so that we can deliver a safer country.

Lord Judd (Lab) [V]: My Lords, it is a question not just of numbers, although they are vital, but of the qualifications of those who are coming in. At its best—it has a very distinguished past—the probation service was about helping people form friendships and feel that they are part of society. It takes a great deal of patience, understanding and skill to do this and build a real relationship with the people concerned. Can we be assured that the work being done to recruit these people is about not just numbers—although, as I say, that is vital—but the quality and type of person being brought into the service?

Baroness Scott of Bybrook (Con): The noble Lord is absolutely right that it is not just about numbers. However, it takes two years to recruit and train a probation officer; they undergo job training and earn qualifications during their first 15 to 21 months of employment. It is also important that we recruit the right people. It is interesting that in the recent campaign to recruit probation officers, we have had 6,000 applications over the last four months. That has exceeded our target by 250%. More importantly, applications from BAME candidates totalled 27.4%, which exceeded the target, and in London we are attracting the highest numbers of BAME candidates, at 59%.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, in the case of the probation service, the outsourcing of the coercive power of the state, removing the Government's direct responsibility for decisions about people's liberty and physical control over their bodies, went predictably and disastrously wrong. Will the Government commit to not making that choice again in probation, prisons and immigration detention, and move to take full and proper responsibility for and control over their actions?

Baroness Scott of Bybrook (Con): By moving to a National Probation Service, we will be taking full control of that service in future, as of June 2021.

Lord Kirkhope of Harrogate (Con) [V]: My Lords, I am sure it is only right and proper that we should all be grateful to those working in the probation service. But does my noble friend agree that staff working for voluntary and community organisations across the country also play a crucial role in supporting offenders and turning their lives around? Will she explain how the Government plan to support this voluntary sector as part of their reforms?

Baroness Scott of Bybrook (Con): I thank the noble Lord for his question. The expertise and commitment of the voluntary sector organisations are absolutely vital in helping offenders turn their lives around. Over

10,000 people are employed in the specialist criminal justice voluntary organisations. Our plan for the National Probation Service is to have a dynamic framework which will allow it to directly commission rehabilitative services in a way that encourages the participation of a range of suppliers, including smaller suppliers, which are often in the voluntary sector. These services must be responsive to the needs of the local areas in which they work. We anticipate eventually spending over £100 million a year on these services. I am delighted that at this time over 180 organisations have already registered to bid for contracts on the dynamic framework, and that 60% of them are voluntary organisations.

Lord German (LD): My Lords, while this strategy has all the hallmarks of a very modern, forward-looking strategy for the workforce, any workforce of this sort needs to have the resource to be able to do the job properly. Key to that is the financial lever. Could the Minister tell us whether there are plans, in the work that is being done locally, particularly with local authorities, housing associations, the health service and other voluntary bodies, to give a financial lever to probation officers so that they have some role to play in engaging with services and with their funding?

Baroness Scott of Bybrook (Con): My Lords, the noble Lord is right that the probation service never does anything on its own. It is important that it looks to work with local authorities, the private sector and the voluntary sector to deliver those areas, and that it uses its money across those other areas to deliver the right services.

Lord Hunt of Wirral (Con) [V]: I declare my interests as set out in the register and welcome my noble friend the Minister. Could she explain how the Government plan to retain the talented staff currently in service?

Baroness Scott of Bybrook (Con): We know that the workforce issues are about not just the recruitment but the retention, as the noble Lord says, of some really excellent staff. It is important, and we must admit that high workloads are an issue for probation officers at the moment. We have a workforce programme and we will develop a three to five-year retention strategy to find practical solutions to ensure that we keep the talent we already have—or have had and who want to come back. That is looking at things that are much more about the well-being of our staff.

Lord Woolf (CB) [V]: Many years ago when I was a young barrister, I was advised that when defending a client who was about to be sentenced and wanting to persuade the judge to take a lenient course, I should first speak to the probation officer. If I could persuade him or her of my arguments, that would be the best way to influence the judge. Through no fault of the probation service, unfortunately that trust was undermined. I hope that the probation officers who are now being recruited will restore that trust and will have their attention drawn to the fact that it is very important that they manage to persuade the judiciary of their competence in their work.

Baroness Scott of Bybrook (Con): My Lords, I do not know about the history that the noble and learned Lord mentions, but I know that we have committed and professional staff in the probation service who will work tirelessly to ensure that they put their points forward and do their work to make sure that our country is safe.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the time allowed for this Question has now elapsed.

1.50 pm

Sitting suspended.

Sentencing White Paper

Statement

The following Statement was made in the House of Commons on Wednesday 16 September.

"With permission, Mr Speaker, I will make a Statement on the Government's plans to reform the system of sentencing in England and Wales. This morning, I laid before Parliament a White Paper entitled 'A Smarter Approach to Sentencing' and I wanted to come to the House to outline the measures contained within it.

The first duty of any Government is to protect their people, but the complex system of sentencing in England and Wales does not always command the confidence of the public. At one end of the spectrum of offending, there are serious sexual and violent criminals who, by automatic operation of the law, leave prison halfway through their sentence. We are going to ensure that more of these serious offenders stay in custody for longer.

There are also criminals who, while serving time for their offence, may become a danger to the public but who currently would be eligible for automatic release. We are acting to prevent fewer of these offenders from leaving prison without being assessed as safe by Parole Board experts. These measures will keep offenders who pose a risk to the public off the streets for longer and help to restore public confidence that robust sentences are executed in a way that better reflects the gravity of the crimes committed.

At the other end of the spectrum, protecting the public from the effects of lower-level offending means finding new ways to break cycles of crime—to prevent a revolving door of short custodial sentences that we know offer little rehabilitative value. Criminals in that category often have chaotic lifestyles and their offending can be driven by substance misuse, poor mental health or learning difficulties. They often have limited education, few job prospects and experience generational patterns of offending.

Rather than continuing to send them back and forth to prison—doing the same thing but expecting a different result—we instead want to empower the sentencing system to use more effective community sentencing to get them off drugs and into the jobs that we know can lead them to a better life. We will do that by better identifying individual needs, providing treatment options where appropriate and utilising technology, such as sobriety tags, to drive compliance. These measures will support offenders to change their lifestyles for good and, in the process, protect the public from the ongoing effects of their crimes.

[Lord Lexden]

The reforms will not work unless they are underpinned by a world-class probation system that can understand and implement sentencing properly, backed up by a high-quality probation workforce. I pay tribute to the probation service and everyone who works within it to supervise offenders. We have set ourselves an ambitious target to recruit 1,000 new trainee probation officers in 2020-21, and over the next few years we are determined to invest in the skills, capability and ways of working that probation officers need to do their job to the best standard.

Within the new probation arrangements, we will unify sentence management under the National Probation Service to further grow confidence between probation and the courts, with which there is a much closer relationship than under the old model. The 12 new probation regions will have a new dynamic framework, making it easier to deliver rehabilitation services through voluntary and specialist organisations. We will legislate to give probation practitioners greater flexibility to take action where offenders' rehabilitative needs are not being met or where they pose a risk to the public. These measures will empower probation services to be more effective at every juncture of the criminal justice system.

The White Paper also contains measures to reduce stubbornly high reoffending rates by utilising GPS technology to drive further compliance, and to make it easier for offenders to get jobs by reducing the period after which some sentences can be considered spent for the purposes of criminal records checks for non-sensitive roles. In the youth system, it puts flexibility into the hands of judges to keep violent young offenders in custody for longer, while at the same time allowing courts to pass sentences that are tailored to the rehabilitative needs of each young person.

The White Paper builds on the current sentencing framework to create a system that will be much better equipped to do its job effectively, and throughout this document there are contributions from other ministerial colleagues right across Whitehall. That is an acknowledgement of the cross-government approach that will be required if we are going to make a success of these reforms. We have got to come together to fulfil our manifesto commitments, to bring in tougher sentences, to tackle drug-related crime, to treat addictions, to improve employment opportunities for offenders, to review the parole system and much more.

A smarter approach to sentencing will grow confidence in the criminal justice system's ability to deal robustly with the worst offenders and reduce the risk of harm to the public. It will also be smart enough to do the things that will really bring down crime in the longer term. I look forward to bringing its various measures through Parliament. I commend the White Paper and this Statement to the House."

2 pm

Lord Falconer of Thoroton (Lab): My Lords, I start with two preliminary points. The enforcement of the law, particularly the criminal law, is key to the success of the United Kingdom. The White Paper describes the criminal law as

"the basis of a fair, free and safe society."

It is hard to take lessons on enforcing the law from a Government who will not respect the law themselves. The promotion of law and order from a Government who behave as if the law does not apply to them reeks of the self-serving hypocrisy which makes people hate politicians so much. But it goes much deeper than that. The Lord Chancellor and the Law Officers are the people within government who defend the law. The Lord Chancellor, who is responsible for this White Paper, has said he will resign only where the law has been breached "in a way which cannot be fudged".

"Fudged" is defined in dictionaries as "presenting something in a way which conceals the truth". Can the Minister update the House on whether the Lord Chancellor still considers that the admitted breach of the law in the internal markets Bill can be presented in a way which conceals the truth?

Secondly, the criminal justice system is currently in utter turmoil, with an enormous backlog because of the virus. There are over 40,000 jury trials awaiting disposal, and the Government have been forced to extend custody time limits from six to nine months. The CPS Inspectorate estimated in June that it could take 10 years to clear the backlog. It has got worse since then. This White Paper will be a dead letter if the Government cannot deal with the current crisis. I note that the head of the Courts Service has just left to become the Permanent Secretary, or acting Permanent Secretary, at the Education Department. Can the Minister tell us who is now in charge of the Courts Service at official level? Can she give us details of the current level of the backlog and the steps being taken by the Ministry of Justice to deal with it, and her estimate of when it will be dealt with?

To produce a White Paper like this at this time feels like a gimmick. The White Paper is a hotchpotch, with no unifying themes. Some of the strengthening of sentencing for some violent and sexual offenders is sensible. We welcome the pilots of problem-solving courts; their success already in Liverpool and other places makes me think that the MoJ could go quicker and further on them. Tougher community sentences and greater use of tagging is welcomed as well, and we also welcome the reduction in criminal conviction disclosure periods for those seeking employment.

What this White Paper does not do is signal a fundamental shift in sentencing. It looks like the worst sort of politicking. The fundamental shift should be being consistently tough on sexual and violent crimes and remorselessly focused on reducing reoffending. It should recognise that one-third of those being considered for community sentencing have mental health problems, and the White Paper should begin to address that. To have a proper plan that represents a fundamental shift, there needs to be a properly resourced plan for a properly staffed Prison Service that is able to deal with demand; a properly resourced probation service; and effective and, where appropriate, intense community penalties.

When does the Minister expect the legislation referred to in the White Paper to be produced? What additional resources does the Minister expect to be put into the system to fund this "fundamental shift"? When will the problem-solving courts be rolled out? How many offenders are affected by reducing the two-thirds release

date for those sentenced from seven years down to four years? How many more prison places will be required to accommodate the increase in the life tariffs from one-half to two-thirds of the equivalent determinate sentence, and when will those prison places be available?

Lord Thomas of Gresford (LD) [V]: The Statement rightly claims that the first duty of any Government is to protect their people. There are two competing views as to how people should be protected. There are those who believe that warehousing offenders for as long as possible is a sure way of protecting the public, at the price of destroying the span of their lives on this planet. The alternative view is that the time and space given by incarceration in prison should be constructively used to reform and rehabilitate the prisoner, not just for his own sake but for the protection of the public in the long term.

The alternative approach is recognised in the White Paper in its call to empower the sentencing system with more effective community sentencing. It recognises the evil of drugs and unemployment regarding the individual and undertakes that individual needs will be identified and met. These reforms, it says, will not work unless they are underpinned by a "world-class" probation system. I entirely agree.

Much depends on the quality of probation officers. I recall from my early days in the law—as did the noble and learned Lord, Lord Woolf, in the debate on the Question a moment ago—that many experienced and mature probation officers did much to improve the life chances of young people. I welcome the reference in the White Paper to a closer relationship between probation and the courts. That is how it used to be. In more recent years, the probation service has not seemed to be in the offender's corner, to the point where it was risky for defence counsel to ask for a report because it would very likely be negative. The need for diversity in recruitment was not raised today in the earlier Question, but it is important to recall that an investigation in January of this year found that 70% of probation officers were female and white and did not meet the need for people of maturity, of different colour and of greater experience who can deal with the problems placed before them.

This paper, however, emphasises longer sentencing. Like Bad Boris in the "Dead Ringers" radio comedy, the desire to warehouse people creeps through. Here is where the strategy breaks down. I have spoken on other occasions of Berwyn Prison in Wrexham, near my home, which is the newest and largest prison in the United Kingdom and the second largest in Europe. Coming into its fourth year, it is still 400 short of its full complement because it still cannot recruit the staff. It does not begin to fulfil the rehabilitative ambitions with which it was built, and it is a byword for drugs and assaults on staff and fellow prisoners, as a study by Dr Robert Jones of Cardiff University found in June of this year. If such a new prison struggles to succeed, longer sentencing is decidedly not the way forward. This mars the otherwise constructive approach of much of the White Paper.

The noble and learned Lord, Lord Falconer, has asked many questions, so I will not add to the Minister's further burden with mine.

Baroness Scott of Bybrook (Con): I thank both noble Lords for their comments and questions. The noble and learned Lord, Lord Falconer, is absolutely right that the first duty of any Government is to protect their people, but too often, at the moment, our system of sentencing in England and Wales does not command the confidence of the public. That is why we have put forward this White Paper on sentencing.

I am not going to comment on the Lord Chancellor's views—I think that is above my pay grade—but I can tell the noble Lord that the person who is in charge of the courts system at the moment is a Mr Kevin Sadler. I hope that helps.

The noble and learned Lord brought up the problem-solving courts. I wondered whether this would come up, because it is true that we have trialled these aspects and other approaches similar to that in England and Wales in the past. However, the full gambit of the traditional problem-solving courts' components successfully used in other jurisdictions to improve offender behaviour and reduce the use of custody and reoffending has never been fully established in this country. There are some elements that have been integrated into previous initiatives, and evaluations were either limited in their scope or did not take place. We therefore want to pilot a full model of PSCs across various cohorts, to properly test whether they work or not in our jurisdiction. That is what the White Paper explains. It is important to know that these courts are not soft options, and they fit very well into the White Paper, which says that serious crime needs to be dealt with and that we need to know what sentences are going to be given and how long people are going to stay in prison, because that gives confidence in the system.

We also understand that we have a reoffending rate that needs to be dealt with and that, in order to do that, we need to get to people early on in their offending career—if you would like to put it like that—and to work out individually what are their issues. Is it drugs? Is it alcohol? Is it mental health? We need to know, and we need the courts to be able to provide a programme, maybe through the probation service, that will help these people early on and stop them reoffending. That is an important part of this White Paper.

To finish on the PSCs, we are not rolling them out until the courts have dealt with the backlog. It is absolutely right that there is a bit of a backlog: that was bound to happen because of Covid-19 and the ways in which we have had to change the way the courts system works.

On the resourcing issues that have been brought up, the Government has given a £155 million increase in funding this year for probation. Through the White Paper they are looking at £2.5 billion to spend on prison reforms that will also help. The noble and learned Lord, Lord Falconer, asked about prison places. It is thought, in the White Paper, we will need another 600 prison places, but there are also designs for another 10,000 places because of the extra police numbers, et cetera, and court activity. That is already in train and the money is there. I think that that was all there was from the noble and learned Lord, Lord Falconer.

Responding to the noble Lord, Lord Thomas of Gresford: once again, yes, it is about protecting people, but it also about people understanding the system and

[Baroness Scott of Bybrook]
having confidence in the system. I have talked a bit about drugs, alcohol and mental health issues. In order to stop reoffending, or to stop young people in particular getting into crime in the first place, we need really good and strong systems for dealing with these issues.

I thought I had mentioned BAME and diversity of recruitment in the probation service. We want, and will have, a probation service that is world class. We will have 1,000 more probation officers who are of good quality, as we deliver the programme between now and July next year. As I think I said in an answer earlier this afternoon, we are looking at diversity when recruiting those 1,000 officers. It is going well and we are over target, particularly on recruits from the BAME community, and particularly in London.

We are looking at longer sentences, but also at something that the public have been asking for for a long time, which is to understand sentencing and, particularly, to understand why people come out earlier than they should. It is crucial, when you have sentences for serious offenders, that they spend more of their sentence behind bars. That should truly reflect the severity of their crimes, so that the public, and victims particularly, have confidence in the justice that has been served. That is why we have announced abolishing automatic halfway release for certain serious sexual and violent offenders, requiring them instead to serve two-thirds of their sentence in prison. We will also make whole-life orders the starting point for the murder of a child, which we think is important, as well as allowing judges to hand out the maximum punishment to 18 to 20 year-olds in very exceptional cases.

I will look at *Hansard* and make sure that, if I have not answered questions from either the noble Lord or the noble and learned Lord, I will do so in writing and put a copy in the Library.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, we now come to the 20 minutes allocated for Back-Bench questions. I ask that questions and answers be brief, so that I can call the maximum number of speakers. I first call the noble and learned Lord, Lord Woolf. Do we have the noble Lord? I do not think we do. I next call the noble Lord, Lord Davies of Gower, who is not in the Chamber. Do we have him on Zoom? No, we do not seem to have the noble Lord. So I now call the noble Baroness, Lady Blackstone, who is with us—good.

2.18 pm

Baroness Blackstone (Ind Lab): My Lords, I welcome the White Paper's proposal to stop sending lower-level offenders back and forth to prison, and to develop more effective, non-custodial sentences. This is something that has been called for over for many years, but the call has gone unheeded. I ask the Minister why, in contrast, so little is being done to improve the regime inside prisons where, for example, a lack of good-quality education and training, and effective work programmes, means that rehabilitation is compromised, and over-crowding, self-harm and violence are increasing. Would she agree that ever-longer sentences and ever-worse conditions can lead only to very poor outcomes?

Baroness Scott of Bybrook (Con): Yes, prisons need investment. That is why we are putting in £2.5 billion to be spent on prisons, not just for additional places but for upgrading prisons that need upgrading. It is important that young people in particular get individual services to ensure that they do not keep reoffending and get the services they need in the community to help them come out of crime.

Lord German (LD): My Lords, I welcome the Government's expressed intent in this White Paper of reducing and tackling reoffending, but it is against the delivery of that intention that they will be judged. I note the issue of handovers, which suggests to me that an offender will be passed from one person to the next rather than having a seamless route through training and support. Nowhere in the chapter on reducing reoffending, other than in the title of the government department, is there a mention of engagement with local government. It has a key role here: housing, community and social care responsibilities. The words "local government" do not appear in this chapter. Is that a deliberate omission, an oversight or a mistake?

Baroness Scott of Bybrook (Con): My Lords, as someone who has spent 25 years in local government, I am sure it is understood that local government is important in delivering. As the noble Lord said, it is about housing and drug and alcohol support. It can even be about education, particularly basic skills that some of these young offenders—or older offenders—often do not have. I quite agree with him and will take that back.

Lord Carlile of Berriew (CB): My Lords, I welcome the albeit very tentative steps to improve the youth justice system, but will the Minister let us into a secret that remains unopened by the White Paper? What is the empirical criminological evidence base for the Government's apparent belief that lengthening sentences in ever more dangerous and unruly prisons will either reduce crime or increase prisoners' prospects of an orderly life on release?

Baroness Scott of Bybrook (Con): My Lords, that is exactly why the Government are looking to invest in our prisons, but we have to ensure that the public understand and have confidence in the system. They are asking that we have dangerous prisoners in custody for longer, but the noble Lord is absolutely right that we then have to invest in our prisons.

Baroness Neville-Rolfe (Con) [V]: My Lords, I think we all accept that effective community sentencing and a proper probation service are urgent and necessary. However, I am concerned that these can be an excuse for not investing in the prisons we need—both new prisons and the repair of some deplorable examples, which my noble friend the Minister touched on. There has not been adequate emphasis on such investment since I had the pleasure of working with the noble Lord, Lord Howard of Lympne, in the 1990s. I welcome today's sentencing reform, but investment in prisons is very slow. Will the Government accelerate and enhance their plans for investment announced now over a year ago?

Baroness Scott of Bybrook (Con): I thank my noble friend for her question. As I said, we are creating 10,000 additional prison places, on top of those being delivered by Wellingborough and Glen Parva. These new prisons have been designed to be safe, decent and secure and to support effective rehabilitation. We have committed an additional £156 million this year to address some of the most immediate maintenance and renewal issues across the prison estate. We are also grateful to our FM providers and all those other contractors that have helped us operate prisons safely in the very challenging environment of Covid-19. Most recently, we announced that £140 million will be spent installing temporary prison cells, repairing and refurbishing prisons, approved premises and young offender institutions and improving IT in the Prison Service.

Baroness Whitaker (Lab) [V]: My Lords, while agreeing with my noble and learned friend Lord Falconer, I would have welcomed many of the proposals in the White Paper when I was a magistrate—but I was depressed to see that in paragraph 394 in the annexe on race disparity, a most important element of justice, the term "White" is contrasted with "BAME". Does the Minister agree with me that there are white minority-ethnic groups, notably Gypsies, Travellers and Roma, as well as people from the Balkan countries? Secondly, why has the Youth Justice Board not fulfilled the undertaking made to me several years ago by the noble Lord, Lord McNally, to separately categorise Gypsies, Travellers and Roma, so that we can finally make a start to better understand the context of their situation in the criminal justice system?

Baroness Scott of Bybrook (Con): I apologise to the noble Baroness, but I could not hear the majority of what she said, and I do not think the rest of the Front Bench could either. I wonder whether we could take it offline and I will write to her.

Lord Paddick (LD): My Lords, while many aspects of the White Paper may be welcome, the fact is that the criminal justice system is creaking at the seams. What the Minister described as a bit of a backlog as of 31 March was in fact 326,000 outstanding cases at magistrates' courts, an 11% increase over the previous year, and more than 40,000 cases at the Crown Court, a 21% increase. Unlike what the Minister said, most of this backlog occurred before the Covid lockdown, which was not until 23 March. As a recent study by Her Majesty's Crown Prosecution Service Inspectorate said, the criminal justice system is "close to breaking point". What are the Government going to do to avert a crisis in the criminal justice system?

Baroness Scott of Bybrook (Con): I am afraid I do not agree with the noble Lord totally. A lot of people do not accept how much Covid-19 has affected services such as the courts service. That does not mean the Government need to be complacent. They are working as to how they move through the backlog, and I know the work we are doing with the National Probation Service and this sentencing White Paper will help us do that.

Lord Berkeley of Knighton (CB) [V]: My Lords, I could not understand more the outrage of a family who have lost a loved one through crime and see the culprit serve only six years of a sentence, for example. However, as someone who has worked in rehabilitation through the arts in prison, I am nervous of not finding that the balance between retribution, rehabilitation and redemption is kept. Does the Minister agree that lack of hope can lead to despair, unrest in prison and even suicide?

Baroness Scott of Bybrook (Con): First, the noble Lord is absolutely right that for a family who have lost a loved one to violent crime, it is a terrible thing—but, yes, we need to make sure offenders are looked after properly, and that is why we are investing in the Prison Service. We need to ensure that what we do there, or within the community for more minor offences, is rehabilitation.

Lord Morris of Aberavon (Lab) [V]: My Lords, as a former sentencer, I welcome the Lord Chancellor's attempts to break the revolving door between offending and resentencing. Do the Government propose to amend his statutory duty to safeguard the rule of law? Will the Government seek the advice of our esteemed remaining law officers about how to make other exceptions to lawbreaking in a very "limited and special" way—to quote the Northern Ireland Secretary?

Baroness Scott of Bybrook (Con): I thank the noble and learned Lord for his comments. I think I have answered this. It is out of my level of government involvement and the scope of the White Paper.

Lord Beith (LD): My Lords, there are many good initiatives in this White Paper—problem-solving courts, identifying mental illness and brain damage as a factor in crime, and developing robust alternatives to breaches of community sentences, which normally end in custody at the moment. But they all depend on resources that have not hitherto been made available. Given that increasing the length of sentences not only has a direct effect but leads indirectly to the inflation of other sentences in comparison, the Prison Service will be at the front of the queue, desperately needing resources, and all these initiatives will be at the back, will they not?

Baroness Scott of Bybrook (Con): I do not think they will, my Lords. Neurodivergent individuals—who I think the noble Lord was talking about—are very overrepresented in the criminal justice system and need more support. The White Paper understands that, will work effectively and, I hope, put more resources into it. The MoJ, working with the Department of Health and Social Care and the Department for Education, is leading a refresh across the whole of government, particularly on the autism strategy, which is relevant to a large part of this cohort. It is important that that improves data capture on autism and ensures enough training and awareness about these people among the justice family, particularly when looking at prisons and the probation service, so that, rather than not understand them, we can support these individuals better.

Lord Bhatia (Non-Afl) [V]: My Lords, this White Paper will force sexual and violent criminals to spend longer in prison, allow whole-life orders for under-21s and child killers, and stop the automatic release of inmates who may be dangerous. The White Paper and the Bill that follows should first determine why prisons are running out of space. There is a need to review the probation services, as they can help with the problem. It also must be recognised that there is a need to help the prisoners reform. Many have committed crimes because of mental health problems, or drugs and alcoholism. The problems of BAME communities have also been mentioned, and proper consultation with the communities and churches concerned is needed. Does the Minister agree that more thinking should be done before enacting the law?

Baroness Scott of Bybrook (Con): I agree with the noble Lord that rehabilitation, both in prisons and in the community, is of utmost importance. That is why a great deal of the White Paper talks about how we will make those services far better. The BAME community is important and, as far as BAME offenders are concerned, it is important that we know everybody as an individual, and we know their issues and problems, whatever they are, with rehabilitation programmes designed particularly for that individual. We talked about probation officers from the BAME community and I am pleased by the number coming forward for the recruitment drive.

Lord Browne of Ladyton (Lab) [V]: My Lords, in the last 10 years, we have had seven Justice Secretaries making similar pledges to protect the public and to cut reoffending. Instead, despite more laws increasing jail terms, we have seen crimes rise and prosecutions fall to a record low. As exposed in the recent report from the Public Accounts Committee, published only on 11 September, the scale of mismanagement of the prison estate, disregard for women in prisons and the failure of the disastrous probation reforms are staggering. Inevitably, five days later, we get ever longer sentences, what I fear will prove to be more delusional promises of future delivery, and some piecemeal positive proposals. When will we see what is needed and what the PAC has now recommended twice, which is a coherent cross-government strategy to reduce reoffending?

Baroness Scott of Bybrook (Con): The issues that the noble Lord talks about are why we have this White Paper. We know there are things that need to be looked at. The White Paper is there for people to look at and debate, and legislation to address the issues it has brought up will come forward next year.

2.35 pm

Sitting suspended.

Counter-Terrorism and Sentencing Bill

Second Reading

1.47 pm

Moved by ***Lord Parkinson of Whitley Bay***

That the Bill be now read a second time.

Lord Parkinson of Whitley Bay (Con): My Lords, on behalf of my noble friend Lady Williams of Trafford, I beg to move that the Bill be read a second time. No Government could be glad at putting a further counterterrorism Bill before your Lordships' House, but sadly it is born of necessity.

The Bill was originally conceived in response to the appalling attack that took place in Fishmongers' Hall in November 2019. Sadly, during its development, in February 2020 a further terrorist attack was carried out in Streatham. Both attacks were perpetrated by offenders who had been automatically released half way through their sentence. There was no possibility of keeping them in prison beyond that point under the law at the time.

The Government took immediate action to redress that error by introducing emergency legislation, the Terrorist Offenders (Restriction of Early Release) Act 2020. We were grateful to noble Lords for the detailed and constructive debates on that Bill, which enabled us to halt the imminent automatic release of further terrorist offenders and ensure that they will be referred to the Parole Board before they can be considered for early release from their custodial sentence. Those debates and the swift passage of that Bill were a demonstration of the strength of our Parliament, in times of great need, to ensure that the right laws are in place to protect the public. Those shocking attacks underlined the need for the Government to do all that we can to offer greater protection to the public and justice for the victims of terrorism. Despite the ongoing and determined efforts of our security services, the threat of terrorism sadly remains; indeed, it is ever evolving.

This Bill will therefore strengthen not only the sentencing framework for terrorist offenders, but also the tools that enable our public services better to monitor and disrupt convicted terrorists and those who are of terrorism concern. Those who commit serious acts of terror must face sentences which match the severity of their crimes. Part 1 of the Bill sets out reforms which will introduce a new range of sentences—and improvements to existing sentences—which properly reflect the harm such crimes cause.

The first of these changes is the introduction of the serious terrorism sentence. This mandates a minimum custodial period of 14 years and a licence period of seven to 25 years for those who commit serious terrorist acts which put the lives of members of the public at risk. Where such offenders do not receive a life sentence, the serious terrorism sentence will provide for a minimum of 14 years in custody. The Bill will also make changes to the sentences of offenders assessed as dangerous by the court, and who could have received a life sentence for their offending, but instead received an extended determinate sentence. The Bill recognises these offences as sufficiently serious that there should be no prospect of early release from their custodial sentence. Further to this, for this cohort the courts will be empowered to apply licence periods of up to 10 years. I will say more on those licence conditions shortly.

We also propose to increase the maximum sentence given to those found to be members of, or providing support to, proscribed organisations, or those who attend a place used for terrorism training, from 10 to

14 years. These changes are made following the sentencing review announced by my right honourable and learned friend the Lord Chancellor in February.

This review also informed amendments to the Counter-Terrorism Act 2008, which are also supported by the Independent Reviewer of Terrorism Legislation, Jonathan Hall QC. These amendments will enable the courts to find any offence with a maximum penalty of more than two years to have a terrorist connection, which will lead to an aggravation of that sentence. It will also ensure that these offenders are subject to the registered terrorist offender notification requirements following their release from prison.

These measures clearly demonstrate the seriousness with which the Government view this type of offending. They also ensure that there is additional time for the authorities to support reform of such dangerous behaviour, improving our ability to rehabilitate offenders motivated by warped and abhorrent ideologies.

Noble Lords will appreciate how the recent terrorist attacks demonstrated the vital role played by those who monitor and manage the risk presented by terrorism in our communities, be they the police, the probation service or the security services. The Government know that time spent on licence is a crucial opportunity both to monitor and manage offenders in the community and to support their rehabilitation so that there can be long-lasting changes to their behaviour.

In recognition of the significance of this opportunity, we are adding all terrorism offences with a maximum penalty of over two years to the sentence for offenders of particular concern regime, with equivalent provision in Scotland and Northern Ireland. This will guarantee that any offender convicted of a terrorism offence covered by the Terrorist Offenders (Restriction of Early Release) Act will no longer be eligible for a standard determinate sentence and, instead, will receive a sentence for offenders of particular concern, ensuring a mandatory period of at least one year on licence.

The Bill also introduces a range of measures that will support the effective and efficient risk management of terrorist offenders. It will make available the use of polygraph testing when terrorist offenders are released on licence—as a condition of their licence— where necessary and proportionate to managing their risk. This is an approach similar to the already successfully adopted practice used for the monitoring of sex offenders in the community in England and Wales.

Debate in another place aired concern over this provision, so I assure noble Lords that this measure has all the relevant safeguards within its design. A failed test—that is, physiological reactions which indicate dishonesty—will never be sufficient to recall an offender to custody, nor will information gained during a test be used in a criminal proceeding against the examined offender. The measure will, however, provide critical "information gain", which will support offender managers in their essential role, allowing them to tailor and refine risk-management plans to the benefit of wider society.

The Bill also makes a number of changes to the disruption and risk-management tools available to our operational partners. We are lowering the standard of proof for imposing a terrorism prevention and investigation measure, or TPIM, notice from the "balance of probabilities" to "reasonable grounds for suspecting" that an individual is, or has been, involved in terrorism-related activity. Lowering the standard of proof increases the flexibility of TPIMs as a tool for public protection, supporting their use in a wider variety of circumstances.

The Bill also specifies new measures which can be applied to TPIM subjects and removes the current two-year limit for which a TPIM notice can last. Instead, a TPIM will last for one year at a time but will be capable of repeated renewal. A TPIM will be renewed only when it is necessary and proportionate to do so. Should that justification cease, the TPIM will not be renewed.

Although it is important that we make these changes to support our operational partners, it is also important to be clear that TPIMs will remain a tool of last resort to protect the public from dangerous individuals whom it is not possible to prosecute or deport, or individuals who remain a real threat after being released from prison.

A further preventive measure that we are taking is to amend legislation governing serious crime prevention orders by allowing the police to apply for one directly to the High Court in terrorism cases. This will streamline the application process and is intended to support an increased use of these orders in such instances.

We are also adding the offences of breaching a TPIM notice and breaching a temporary exclusion order to the list of relevant terrorism offences which can trigger the registered terrorist offender notification requirements. This will help to close current gaps in our ability to manage terrorist offenders following their release from prison and any risk they pose.

The combined impact of these changes will strengthen our ability to manage the risk posed by people of terrorism concern in the community, including those released from prison without a period on licence.

The Bill also makes some changes to the way we deal with young terrorist offenders under the age of 18. We recognise that there is a separate sentencing framework for that category of offender, with distinct purposes and aims, which, quite rightly, differ from those for adults. Although we accept that there are important considerations of age and maturity to take into account—and we remain firm in our ambition to ensure that custody is used only where necessary—some young people are susceptible to radicalisation or to adopting extremist views and, among them, a few will unfortunately pose a very serious threat to the public. After due care and consideration, we have decided to apply some of the measures in the Bill to those aged under 18 in cases where it is imperative that we address the risk to the public posed by serious terrorist offenders. In that regard, we believe that the extended determinate sentence provisions strike a balance between mitigating the threat posed by terrorist offenders assessed as dangerous by the courts and the need to consider the welfare of younger offenders.

The Bill will also ensure that the courts have the right range of options at their disposal to deal with those under the age of 18 who commit serious terrorist or terrorism-related offences by introducing a new sentence of detention for terrorist offenders of particular concern.

[Lord Parkinson of Whitley Bay]
This new sentence will ensure that those offenders are subject to a fixed, one-year period on licence once released, the aim of which is to support their reintegration into the community and to safeguard the public.

A major component of our strategy for dealing with terrorism is Prevent, which aims to stop people becoming terrorists or supporting terrorism through terrorist-related activities. The independent review of Prevent will deliver on the Government's commitment set out in the Counter-Terrorism and Border Security Act 2019 and will critically examine and report on the Government's strategy for safeguarding those susceptible to extreme ideology.

Following the noble Lord, Lord Carlile of Berriew, stepping down, the process of appointing the next independent reviewer is under way by means of a full and open competition. To give the new reviewer the time necessary to carry out this important review, the Bill will remove the statutory deadline for the completion of the review. The aim is that it will have concluded, with a government response, by August 2021. However, given the ongoing uncertainty in light of the effect that Covid-19 is having on society, I hope that noble Lords will appreciate why a statutory deadline is no longer appropriate.

The threat posed by terrorism is one faced by every jurisdiction of this nation, and Her Majesty's Government have a responsibility to protect all the people of the United Kingdom, wherever they may reside. To this end, we have set out to ensure that the provisions in the Bill will equally take effect in England and Wales, Scotland, and Northern Ireland. This includes the full application of the measures set out in the terrorist offenders Act to Northern Ireland.

We know that terrorism constantly morphs and adapts to circumvent measures put in place to counter it, so we must be equally flexible and refresh these critical laws to stay ahead of the threat it poses. The package of measures in the Bill aims to do just that by strengthening our hand at each stage of the process of dealing with terrorist offenders. From sentencing through to release and monitoring of these offenders, this legislation reaffirms our determination to ensure that the public are protected and, importantly, to give them confidence in that protection.

I am pleased that there can be rather more time to debate and scrutinise the Bill than was possible with the Terrorist Offenders (Restriction of Early Release) Act, and we look forward to the maiden speeches of my noble friend Lord Vaizey of Didcot and the right reverend Prelate the Bishop of Manchester as part of that, but I hope that that can be accompanied by the same sense of resolve and common purpose as your Lordships' House demonstrated during the passage of that earlier legislation. I beg to move.

3 pm

Lord Falconer of Thoroton (Lab): My Lords, thanks to the noble Lord, Lord Parkinson of Whitley Bay, for introducing with such care and clarity this important Bill. We understand he has been thrown in at the deep end after the sudden departure from the Government of the noble and learned Lord, Lord Keen. He has acquitted himself impressively so far.

This is a significant Bill. The criminal justice response is key in the fight against terrorism but can never be the only response. While many of the recent terrorist atrocities have been associated with Islamist extremism, it is important to identify that there remain threats from others: as the UK's top counterterrorism police officer, Neil Basu, recently confirmed, the fastest growing terrorist threat comes from far-right organisations. Of the 224 people in prison for terror-related offences, 173 are Islamist extremists and 38 are far-right ideologues; and of the 16 plots foiled by the end of 2018, four involved the far-right.

This Bill deals with four issues. The first is increasing sentences for terrorist-related offences. The second is changing the basis on which those convicted of terrorist offences can be released, and the terms thereafter on which they are on licence. The third is changing the TPIMs regime in three significant respects: reducing the burden of proof, making TPIMs last potentially indefinitely, and increasing the range of powers a TPIM can include. The fourth is removing the time limit for completion of the Prevent review, mandated by previous primary legislation.

On this side of the House, we will look carefully at the details of the increase in sentences and the proposed change to the way the system deals with early release of those convicted of terrorist offences. We will also look at when and how the Parole Board should be involved and how it should approach these issues.

While the detail matters a lot, we do not in principle oppose the first two parts of the Bill. There needs to be really tough sentencing for terrorists. Confidence in the system and justice for victims depends on it. The Deputy Mayor of Manchester, my noble friend Lady Hughes, described the gasp from the families of the victims of the Manchester Arena bombings when Mr Justice Jeremy Baker imposed a minimum term of 55 years on Hashem Abedi, who was convicted of plotting the Arena bombing with his brother. My noble friend described the gasp as a small amount of relief among their terrible anguish. It brings little comfort, but the pain of inadequate sentencing for the victims of terrorist bombings is real. The families of those who died in the bombing have themselves been sentenced to a lifetime of pain and loss. The very least they can expect is that the justice system pass sentences that reflect the gravity of what happened.

Coupled with that is the disregard with which the system is viewed when terrorists are released before their nominal sentence is concluded and commit offences again. The tragedies of Fishmongers' Hall on 29 November 2019, and Streatham High Street on 2 February 2020, are terrible examples. At Fishmongers' Hall, the bravery of the Polish porter, Lukasz Koczocik, helped to overpower the terrorists. Two former offenders, James Ford and Marc Conway, also became heroes when they helped tackle the attacker to the ground. Jack Merritt and Saskia Jones, who dedicated their lives to seeing the best in people, were working in offender rehabilitation, only to be killed at the rehabilitation conference at Fishmongers' Hall. I pay a heartfelt tribute to them and extend my deepest sympathy to their families for their unimaginable loss. This terrorist attack, like the one on Streatham High

Street on 2 February, was committed by an individual who was already convicted as a terrorist offender but had been released automatically halfway through their sentence. They were neither deradicalised nor deterred by their time in prison. In fact, their time at Her Majesty's pleasure had made the position worse.

The most serious terror offences already attract what is known as extended determinate sentences, which require an offender to be referred to the Parole Board at the two-thirds stage of their custodial term, when they can be considered for release. At the end of the custodial term, the offender will be released on an extended licence. For terrorist offenders for whom the maximum penalty for their offence is life, this Bill removes the opportunity of Parole Board-directed release before the end of the custodial term, ensuring they serve a whole term in custody. This applies UK-wide and to both young and adult offenders. For this cohort of offenders, there will be no chance of parole before the end of the custodial term. This will give rise to prisoner management problems where there is no prospect of early release. However, that may well have to be faced. As the Bill goes through the House, we will need to consider whether that is appropriate for someone convicted under the age of 21. People seduced by appalling ideologies when teenagers should have some hope. There is agreement that, the younger the subject, the greater the hope for successful de-radicalising measures.

The Bill proposes that the maximum licence period for terrorists after release should be 25 years. We have concerns about the proportionality and cost of that reform, which have also been expressed by the Independent Reviewer of Terrorism Legislation. There is no explanation as to how this burden will be paid for in the context of a decimated probation service. Much of what happens on licence will depend on the effectiveness of the probation service. It is truly hopeless of the Government to blithely increase these licence periods, thereby appearing tough to the public, knowing full well that without proper additional expenditure on the probation service, these commitments and legislation will have little effect in the real world. Could the Minister provide the House with estimates of how much extra expenditure will be incurred by giving effect to these additional licence periods? How will probation afford them?

These are some of the issues in the first part of the Bill that we will wish to explore. I make it clear that, in principle, we support increasing the length of terrorist sentences and the significant tightening of the circumstances, outlined in the second part of the Bill, in which a person convicted of a terrorist offence may be released before the end of his custodial term. We consider it crucial that the criminal justice system be effective in catching and convicting terrorists, passing appropriate sentences and ensuring—consistent with the terms of their sentence—that they are not released before it is safe to do so. That does not mean that every terrorist is sentenced to an indeterminate sentence, but that the true length of the sentence passed and how it is implemented must have public confidence.

In connection with sentencing and early release, I have focused on what is in the Bill, but it is important also to focus on what is not in it. Inside and outside the criminal justice system, there must be a much more driven and focused effort on de-radicalisation measures. For many prisoners, such measures will have no impact whatsoever; moreover, many will manipulate the system to obtain early release by pretending they have had an effect. But that is not a reason to give up on those measures, both inside and outside prison. The Acheson review of 2016 dealt with de-radicalisation measures in prison. He made 69 recommendations, consolidated down to 11, eight of which were accepted. What happened to those recommendations remains a total mystery.

Mr Acheson himself said in a report published in 2019:

> "Our unsafe prisons provide a fertile breeding ground in which predators, peddling extremist and violent ideologies, can prey upon the vulnerable, creating significant risks to national security and the public at large."

He added:

> "On the present trajectory, it is all too conceivable that a future terrorist will have been groomed and radicalised within our prison estate."

Can the Minister provide details of which Acheson recommendations have been implemented, and give details of how they have been implemented?

The failure properly to address de-radicalisation measures in prison will haunt this country for generations, as we establish "academies of terrorism". We must continue with these measures, as much for the prisoners—often young and vulnerable—imprisoned for non-terrorist offences, who end up radicalised and dangerous because of a total lack of push-back from the authorities against the vile, dominating hold of much stronger characters who are imprisoned for terrorist offences, certain of the rightness of their warped beliefs and able to seduce others into them.

In the world outside prison, it is equally important that the state ensures proper pushback against these warped ideologies. The Prevent strategy is designed to do that, but there are legitimate concerns about it and the extent to which its unintended consequences damage the fight against radicalisation. We are disappointed at the slow progress of the review; we are disappointed that there is no reviewer in place and that the Government are still in the process of selecting one. Can the Minister give the House details as to when they hope the review might report, and indicate what steps they are taking to ensure that it does so within a reasonable time? The removal of the time limit, which expired in August 2020, is plainly contrary to the wishes of Parliament when it introduced that amendment. Too often, this Government appear to make a concession in relation to legislation and then do all they can to undermine the effect of that concession. The Dubs amendment is a painful example.

The sentencing, early release and licence provisions in the first two parts of the Bill include a provision for polygraph tests, as mentioned by the Minister, which are to be used to inform licence conditions and their compliance and whether prisoners have broken those provisions. The unreliability of polygraph tests is well known. Can the Minister tell the House what view the Government take on their reliability, how—in light of that—they consider their use to be appropriate, and what studies they are relying on? Once they accept that it is not appropriate to rely on polygraph tests alone to determine whether conditions are satisfied, why rely on them at all?

[Lord Falconer of Thoroton]

Finally, the Bill makes it easier to get a TPIM, gives greater powers if a TPIM is granted, and allows it to last indefinitely without any change in circumstances. There will be cases where trial, conviction and sentence are not possible. It is right that the Government have the sort of power that a TPIM involves as part of their armoury against terrorism, but the changes are significant. Much anxiety has been expressed by non-aligned bodies about whether these powers are necessary. We will look very carefully at these powers. What is absolutely key is that the Government make a proper case for the need for these additional or changed aspects of TPIM. Can the Minister identify, in general terms, the difficulties experienced by those with the power to seek these orders, which currently arise from the balance of probabilities test? Can the Minister explain why it is thought necessary to extend them without a change in circumstances for longer than two years?

This is an important Bill. We will work constructively with the Government to deliver it, and will focus the whole time on equipping the authorities to be as effective as possible in combating terrorism. That means tougher sentencing and parole arrangements, but it also means effective measures to keep people from being radicalised or remaining radical.

3.13 pm

Lord Paddick (LD): My Lords, I start on a personal note to say how pleased I am to be in the Chamber for the maiden speech of the noble Lord, Lord Vaizey of Didcot; I am sure that the right reverend Prelate the Bishop of Manchester will be equally magnificent.

The most important thing we should be seeking to achieve is ensuring that terrorists do not cause harm to others—on that, we are united. How best to achieve this outcome is what is likely to divide us. We on these Benches will decide on the evidence, not the rhetoric. We acknowledge that the terrorist threat level remains "substantial" and that the tragic and horrifying terrorist attacks at Fishmongers' Hall and in Streatham, less than a year ago, were committed by those who were known to the security services, and who had been released automatically at the half-way point of their sentence with no consideration by the Parole Board. As the Minister has said, we passed emergency legislation, the Terrorist Offenders (Restriction of Early Release) Act 2020, to address that situation.

I believe there are six remaining questions of public safety arising out of these tragic incidents, which the Government should be addressing. As the noble and learned Lord, Lord Falconer of Thoroton, has said, some of these are addressed in the Bill but some are not. First, is the Prevent strategy effective in identifying those at risk of being radicalised, and in diverting them away from potential terrorist activity? The most important thing is preventing terrorism—to stop people being radicalised to the extent that they are a threat to the public. Yet, this Bill pushes the independent review of Prevent, which this House insisted on in the Counter-Terrorism and Border Security Act 2019, into the long grass, with no timetable for completion. Can the Minister tell the House what progress, if any, has been made?

Secondly, does the Prison Service have the information, training, expertise and resources to be able to deradicalise those in its custody and to prevent inmates from being radicalised or further radicalised? If they are convicted and imprisoned, offenders need to be in an environment where they can turn their lives around. Longer and longer sentences, extending early release from half way to two-thirds to never being released at all, overcrowding and understaffing—all provide a fertile breeding-ground for radicalisation. What evidence do the Government have that longer sentences deter idealistic, radicalised individuals who are determined to do us harm?

Thirdly, is it more effective to deradicalise those in prison or those on licence—and what is the impact of longer sentences on the susceptibility to deradicalisation? The Government claim that longer sentences provide more time to deradicalise, but what evidence is there that this would be more effective? How do we know that longer sentences, which may be perceived to be unfairly harsh, do not create greater resentment and make someone less amenable to deradicalisation?

Fourthly, does the Parole Board have the information, training, expertise and resources to be able to assess the risk posed by such offenders? What are the Government doing to improve the Parole Board's decision- making capability? There is nothing in the Bill on this issue.

Fifthly, does the probation service have the information, training, expertise and resources to be able to manage the risk posed by such offenders? The Government's record in relation to the probation service generally is disastrous—and the experience and expertise required to manage the potential risk posed by such offenders is considerable. Perhaps lie-detector tests can help. As the Minister said, what evidence is there that they work? Does the probation service have the equipment, technicians and scientists to carry out and interpret the results of the proposed polygraph tests? If they are effective, why is there no plan to make these tests available to the Parole Board, for example, to help in its decision-making?

Sixthly, is the way that different agencies, including the police, probation service and security services, work together to investigate, monitor and manage terrorist offenders under the Multi Agency Public Protection Arrangements operating effectively? Where are we with the implementation of the recommendations of the independent review of MAPPA, particularly those considered urgent by the Independent Reviewer of Terrorism Legislation, who carried out the review?

In 2011, control orders were replaced by terrorism prevention and investigation measures—TPIMs—moving from significant and indefinite restrictions on suspected terrorists' liberties without trial to a limited power to manage the risk posed while evidence was gathered to secure a conviction. TPIMs can be imposed without the standard of proof usually required before the state can restrict an individual's—that is, proof beyond reasonable doubt. The civil case standard of

"the balance of probabilities that the individual is, or has been, involved in terrorism-related activity"

is considered enough.

The Bill wants to take us back to the control order standard of "reasonable grounds for suspecting"—the same standard of proof that a police officer requires

before making an arrest. Believe me, I know that that standard is very low. Jonathan Hall QC, the current independent reviewer of terrorism legislation, says:

> "I am not aware of cases where the authorities would like to have imposed a TPIM if the standard of proof had been lower".—[*Official Report*, Commons, Counter-Terrorism and Sentencing Bill Committee, 25/6/20; col. 6.]

In that case, why do the Government need to change the standard of proof? Jonathan Hall QC also argues against doing away with the two-year limit on TPIMs as the Bill proposes. At the least, he suggests, safeguards are needed, such as the Secretary of State seeking the court's permission for any extension beyond two years in the same way that she does when a TPIM is first made. Although we are blessed with a number of former independent reviewers of terrorism legislation in this House, what is the point of having a current reviewer of terrorism legislation if he is not listened to?

We should not return to the days when the state could deprive someone of their liberties indefinitely without trial. We on these Benches have had enough of the Government's "talk tough" rhetoric and their low-cost or no-cost options that have no evidence to support their effectiveness. We will support every measure in the Bill where the evidence shows they are necessary and effective in keeping us safe from terrorism but we will call out every measure where the evidence suggests they are unnecessary and ineffective.

3.21 pm

Lord Kirkhope of Harrogate (Con) [V]: My Lords, I draw attention to my entry in the register of interests.

As noble Lords will know, the most important duty of legislators when considering measures such as the ones in the Bill is to protect the public from those who might harm them and to keep our hard-fought freedoms safe. I suggest that the Bill responds to that obligation in a suitable and proportionate way. I believe that, unlike some legislation, this has been thoroughly prepared and that the Government have responded to advice, as well as learning from the experience of law enforcers, law professionals and those who have been appointed to review terrorism legislation, including Jonathan Hall QC, the current holder of the role, and the previous reviewer, the noble Lord, Lord Anderson of Ipswich, who I am sure will give us the benefit of his wisdom and experience in the debate today. It has also benefited from careful and responsible scrutiny in the other place. Nevertheless, there are a few items in the proposals that I want to touch on today.

Terrorism is not some distant threat that can be ignored as a non-urgent matter in the consideration of security. In the last three years alone we have succeeded in preventing more than 25 potential attacks by extremists taking place in the UK, many with the direct assistance of our EU neighbours' police and intelligence agencies. As noble Lords know, there are a large number of data-sharing arrangements in place with other EU countries that allow us to benefit in real time to stop attacks. These have included ECRIS, SIS II, Prüm and others. As rapporteur, I had the privilege shortly before I left the European Parliament to take the EU passenger name records measure through its various stages, with the strong support of the UK Government and the other European Governments. I sincerely hope that we will never allow such helpful provisions, which have proved so valuable, to be lost to the people of this country, since if we do it will inevitably put us in greater danger. I would be most grateful if my noble friend the Minister could give us some reassurances on that today.

On other points, I want to mention the changes to the terrorism prevention and investigation measure—TPIM. Of course we know that it is always better to be able to prosecute and, if necessary, deport terrorists than to resort to TPIMs. I know they are not used much and they are not preferred, but the lower standard of proof required for their deployment may well result in them becoming more common in wider circumstances and producing more questions. The removal of the present time limit, while sensible in some cases, raises further questions because, as I am sure we all agree, their use must always be proportionate.

The standard to be followed—that the Secretary of State has reasonable grounds for suspecting that an individual of being involved in terrorist-related activity—has been available since the Prevention of Terrorism Act 2005, introduced then for making control orders, but it is a considerable watering-down of the current test. Can my noble friend tell us more about why this standard of proof is enough?

I want to refer briefly to the proposals for polygraph testing, both for adult terrorist offenders subject to the release provisions of Section 247A of the Criminal Justice Act 2003 and as a TPIM requirement. I realise that their use is believed to be of help as a risk-management tool but I understand that they have only just entered pilot testing for domestic abuse offenders from March this year. My noble friend seems confident of their efficacy but I wonder whether he has plans to introduce a pilot programme similar to the one for domestic abuse and, if so, when that might start. Would that not be a good idea, especially before a comprehensive rollout?

My final remarks are to inquire about resources. I know we all greatly admire the work of our police and security services, especially the probation services, but does my noble friend believe that these new responsibilities can be adequately performed by the probation services and do not require more investment?

Any provision that helps us match the current and perceived future threat from terrorism is to be welcomed, and I am pleased to welcome that. Once the legislation is through, I just hope that the sentencing guidelines that must accompany it are not unduly delayed.

3.26 pm

Lord Thomas of Cwmgiedd (CB) [V]: In thanking the noble Lord, Lord Parkinson, for his very clear and careful introduction of the Bill, I thank him, the Home Office and the Ministry of Justice for making the changes that need to be made to sentencing legislation in the form of amendments to the code. This was a vital first act in that respect. Of course, it may not appear easy to follow as incorporated in the Bill before us, but it is plain from the way in which the code will be developed that judges will have before them all the provisions in the right place in one document. This is a huge step forward. The ministry and the Home Office deserve thanks for adhering to this Bill, unlike what happened in 2003.

[Lord Thomas of Cwmgiedd]

I want to make three points of substance, two relating to the provisions in Part 1 of the Bill and one relating to Part 3. The first, in relation to Part 1, relates to the sentencing of youths and, in particular, Clause 4. It is clear that sentencing those under 21 is the most difficult task for a court. In relation to terrorist offences it is particularly difficult, partly because they are the people who are most suggestible or susceptible to persuasion to embark on terrorism and, in my experience, at least some of those who have committed offences have had learning or other difficulties. I think there can be little doubt that evidence exists to say that such persons are deterred by the prospect of long sentences. It seems to me that the clause ought to be examined in terms of whether the emphasis is in the right place on dealing with someone for the future and ensuring that that person does not in the longer term pursue a career of terrorism. It is an area where it is essential that the judge has full information and should be left to form a judgment.

The second point that I want to make on Part 1 is on the provisions for minimum terms, whether for life sentences, extended sentences or custodial sentences. The general principle should be that there should not be minimum terms unless there is a compelling justification. This is particularly so in relation to offences where there is a huge range of conduct that can be brought within the section, some less serious and some of the utmost severity. Section 5 of the 2006 Act is a very clear illustration of the range that can be encompassed and the difficulties to which it gives rise.

There are guidelines now and I have no doubt that the Sentencing Council will produce new guidelines to reflect the changes. The judges who try these cases are few and, by and large, the courts have been very tough. We need to be very careful in our scrutiny of the provisions for minimum sentences as applied by the Bill.

On TPIMs, perhaps I may make one or two brief observations. First, the use of control orders and TPIMs has a long history and it is clear that they have played an important role in dealing with terrorism. However, that long history makes two things clear. There needs first to be proper judicial scrutiny of all aspects of them. In looking at the amendment made by Clause 37 to the standard of proof, we need to be particularly careful about whether the test set out there is capable of good judicial scrutiny. The second concerns the need for a maximum period. There is quite strong evidence that one of the worst effects of imprisonment for public protection where there are no defined limits to the end point is that the lack of a defined limit can lead to people losing hope and becoming more dangerous. We ought to examine carefully whether we do not wish to impose a maximum, or at least subject that maximum to judicial approval.

3.31 pm

Baroness Hamwee (LD): My Lords, it is easy to talk about countering terrorism, so I want to start by expressing my thanks to all those in the different services who do the work. However, that does not lead me to the view that tougher legislative measures are the best form of prevention. The current Independent Reviewer of Terrorism Legislation—we have a bounty of reviewers with us today—wrote that the services' propensity to argue for more tools in the toolkit was

"a homely phrase, which risks obscuring the question of justifying them."

The most effective of tools used wisely are resources—resources addressed to the fear of being caught and of course prevention, so it is depressing that the focus of the Bill is punishment. What about radicalisation and rehabilitation, as other noble Lords have said and I am sure more will say? What will be the role of the reorganised, the re-reorganised, probation service? In the recently published review of MAPPA, to which my noble friend referred, Jonathan Hall recommends

"wider sharing with probation officers not only of specific intelligence but also of threat assessments and profiles"

and that they be given

"training in the principles of intelligence assessment."

In parenthesis, but not I think irrelevant, I note that the Commons were told that the MAPPA review would be published by the time the Bill started in this House. It has been, and I might be flattered by an implicit recognition of our effectiveness, but as so often happens, something relevant not just to the debate but to everyone's thinking is made available when the opportunities to amend the legislation are very limited.

That could lead me on to the delay in the review of Prevent, but I will save that for Committee as I want to concentrate on TPIMs. We are heading back towards control orders by another name, which I know will be approved of by some, but not by these Benches. I want to say a word about the impact of TPIMs on people—people for whom they are not intended as a punishment. The Bill deals with a limited number of measures, but they are part of the whole of what I have heard referred to as "social death", such that the subject regards prison as preferable because it enables more social interaction and social freedom. TPIMs are outside the criminal justice system but mean being lifted from one's community and placed somewhere utterly unfamiliar without the support of one's normal contacts. To pre-empt the point that the contacts are the problem, I say that we should not ignore positive engagement with and monitoring by family, colleagues and co-religionists. Jonathan Hall writes of the emerging profile of a terrorist risk offender as

"lonely, vulnerable, self-radicalised individuals who are drawn to extreme views, usually encountered and reinforced online, many with poor mental health."

TPIMs reinforce the sense of isolation of those who already have only a tenuous grip on reality. Whether loners or settled in a family, reporting, extensive curfews and controls on computers all make it difficult or impossible to find work. Visitors find security clearance and distance too great a hurdle while the children of the family grow up with depression, an enduring sense of injustice, and are bulled at school as "jihadi kids". Familial cohesion breaks down. There are six current TPIMs, but that does not mean that only six people are affected, and now there will be no certain end in sight. Mr Hall also writes about the importance of stable accommodation in the right area in mitigating risks and says that the ability to find it and obtain

support for mental health may depend on how effectively the police, prisons and probation are able to demonstrate its importance.

The Government take the view that lowering the standard of proof increases the flexibility of TPIMs, making it more practical

"to satisfy the requirement to demonstrate an individual is, or has been, involved in terrorism related activity."

"Flexible" is a weasel word, as is the term "easier to demonstrate". Of course, it will be easier to demonstrate: the Secretary of State will no longer have to be satisfied that an individual is or has been involved in the activity but just to have reasonable grounds for suspicion. The independent reviewer reports that

"even administrative convenience does not appear to provide a basis for reversing the safeguard of a higher standard of proof."

which he says "has not proved impractical".

In addition to his analysis of the lack of safeguards, including judicial safeguards to which the noble and learned Lord, Lord Thomas, just referred, he observes that, "The criminal justice route of fair trial and sentence commands the widest public support." I will add from these Benches that by lowering the standard of proof, we will be lowering our standards too.

3.37 pm

Lord Vaizey of Didcot (Con) (Maiden Speech): My Lords, I am grateful to follow the noble Baroness and for the opportunity to make my maiden speech in this important debate. Perhaps I may begin in the traditional way by thanking the Doorkeepers and staff for making me feel so welcome. I offer them heartfelt thanks because nothing has been too much trouble for them. I also thank my noble friends Lady Bloomfield and Lady Fall for supporting my introduction. Both are extremely busy people. My noble friend Lady Bloomfield has been taking the Agriculture Bill through the Lords and my noble friend Lady Fall has, like me, been preparing for the arrival of Lady Swire's memoirs, which will be published this Thursday.

I do not want to make this too much like an Oscar acceptance speech, but I hope your Lordships will indulge me if I pay tribute to my late father, who came into this place 44 years ago. It was a place he loved and he served it assiduously. He made his maiden speech on the race relations Bill, expressing the hope that the Bill would one day be redundant. Obviously, given the events particularly of this year, that hope has sadly not been realised. He had a mischievous sense of humour. His final Written Question, published on the day of his death, was to take the Government to task for the misspelling of a sign by the Ministry of Works outside Richmond House. My father came into this place on the lavender list. I know that it would have appealed to his mischievous sense of humour to read the article I read just last week, which began with the immortal phrase, "This list of Peers is the worst list since the lavender list." That provided me with a valuable connection to my father.

I was lucky enough to serve in the other place for 14 years as the Member of Parliament for the wonderful constituency of Wantage and Didcot. It is a remarkable place, as every MP says about their constituency, being a place of ancient history and modern science, ranging from the ancient white horse to the Diamond synchrotron, and now the manufacturing centre for vaccines. That is attracting politicians by the bucketload to visit it, including the Prime Minister, as it rises from the ground. It is a great privilege to be able to take the title of Lord Vaizey of Didcot, of Wantage in the county of Oxfordshire, to represent my constituency, although I slightly resent my brother-in-law christening me Lord Vaizey of Parkway.

In any event, I was lucky enough to serve for six years as the Minister for culture and technology in the other place, and those are the subjects on which I hope to bore your Lordships on regular occasions. I do not know how attentively you will listen to me, because I am not sure how good I was at my job. I was, for example, the Minister responsible for rural mobile broadband coverage. I remember—and maybe the noble Lord, Lord Parkinson, will recall—the day I was sacked by the new Prime Minister Theresa May. I do not know if there are any sackees in the Chamber at the moment, but you get a call from Downing Street; I was in my car, and Downing Street said, "The Prime Minister will call you in 15 minutes". As I drove off through the rural hinterland of Oxfordshire, I realised that I had lost my mobile phone signal. It took the Prime Minister half an hour to get through to me, and I was a Minister for 15 minutes longer thanks to the lamentable job I had done in the previous six years.

I turn briefly to the provisions in the Bill, and I say again what a privilege it has been to listen to the remarks made so far—this House is justly well known for the extraordinary expertise it contains within its ranks. It goes without saying that the Bill is essential, following the horrific attacks that have been referred to, and I pay tribute to the victims who sadly lost their lives in those attacks. It is also right to pay great tribute to our security services and our police force, who do such a remarkable job in preventing so many attacks, as has already been referred to.

I want to pick up on the theme, remarked on in some of the earlier speeches, of rehabilitation. It may seem odd to have a former culture Minister seek to speak at Second Reading of a Bill on counterterrorism, but my last meeting as culture Minister was in the Ministry of Justice, where I had assembled a series of charities—the National Criminal Justice Arts Alliance—all of which work in prisons and with offenders in an attempt to engage them, give them opportunities and hope, and turn them away from a life of crime. It sometimes sounds frivolous or even facetious, but I am a passionate and powerful believer in the power of culture, the arts and sport in engaging young people. Noble Lords have already referred to young, vulnerable and disengaged young men. We cannot necessarily forgive their crimes, but we can, if we engage them as early as possible, perhaps turn these young people away from them.

I know that the Prevent strategy has become somewhat controversial, but I think its aims are absolutely laudable. All I would do, given that the Bill covers the Prevent strategy, is urge the Government to continue to look at, and redouble their efforts in, engaging cultural charities and institutions to provide young people with hope and opportunity. I know from my own work with the National Youth Theatre how important that is, and what amazing opportunities are often given to young people.

[Lord Vaizey of Didcot]

The other issue I want to talk about briefly is the role of technology; and here is an area, I think, where we should hold people accountable. Those people are the ones who run huge global platforms such as Facebook and Google. As I am sure noble Lords know, these platforms are used by terrorist organisations. They use them to organise themselves online, to proselytise online, to convert the young and vulnerable people whom we have been talking about—and to monetise their activity. Extraordinarily, they are able to attract, through ad technology, legitimate adverts from legitimate businesses for their websites. Even more extraordinarily, some are even able to sell merchandise—T-shirts and memorabilia—on their websites, which funds their terrorist activities.

It is not within the scope of the Bill to address that issue. However, I know that the *Online Harms* White Paper—which will lead, I hope, to the online harms Bill—will provide an opportunity for this Government to put in place some really ground-breaking legislation, which I hope will change the debate and tip the balance. So I am grateful indeed for your Lordships' indulgence, and the opportunity to make those remarks on the Bill.

3.45 pm

Lord Risby (Con): My Lords, we greatly look forward to the maiden speech of the right reverend Prelate the Bishop of Manchester, but I think it is fair to say that in terms of a maiden speech, we have had a massive treat today. It was an absolutely superb speech. I have known my noble friend for many years. After graduation, he actually became a barrister specialising in family law in practice, but he also at an early stage started writing speeches for some of our most distinguished parliamentarians and, indeed, subsequently followed in that vein by becoming the Member of Parliament for Wantage in 2005.

I would particularly like to highlight one aspect of the whole diversity of his actions as a Minister, and in his life in general. In 2010 he was appointed as Minister for Culture, Communications and Creative Industries. I make no party-political point when I say that, pre Covid, there was a most extraordinary flowering of artistic and cultural endeavour in this country. Those involved in these industries knew one thing: they had a champion in the form of this Minister. He was absolutely committed to his role and to making structural reforms. For example, just one initiative was a new tax regime for the film industry, and we have seen this brilliant flowering of the British film industry in consequence.

When he left office, 150 of the most distinguished people in the arts and the creative industries wrote a letter to him just to say, "Thank you". On reflection, this must be the very first time that this group has ever written such a letter to a Conservative arts Minister. I congratulate him warmly on an outstanding speech, and I look forward to many contributions with his brilliant sense of humour in the future.

Before entering your Lordships' House, I represented a constituency in which there was a prison, and I would just like to mention this little story. The Roman Catholic chaplain asked to see me urgently, because of an atmosphere that was becoming very negative in this prison, and because a group of inmates was showing total hostility in an aggressive way towards him. I spoke to the prison governor, who knew about this but, quite frankly, did not know how to handle it. I discovered that a group of individuals was allegedly being sent, with official permission, to provide family and community contact with these particular individuals. In reality, they were radicalising them and spreading the poison of political extremism. I inquired further and found out that this particular group—who were going to other prisons as well—was actually being paid by the Government to fulfil this role. I simply say: thank goodness that all of this is now understood much better, and we move on to a more comprehensive understanding of the dangers that beset our society with the whole process of radicalisation in our prisons.

Of course, we must handle these matters with proportionality, not least to secure community support and to avoid community disconnection. However, it is plain today that, following some more recent atrocities, legislative action is required. Radicalisation and gang culture are now features of prison life, and let us never forget the immense strains this imposes on prison officers and their families.

I believe the Bill, being the largest overhaul of terrorist sentencing and monitoring for some time, is ready for moving on and being accepted into law. Of course, there are issues about young offenders, particularly those between the ages of 18 and 21, but let us remember that they are entitled to vote at the age of 18, and of course there are some who believe they should be entitled to vote at the age of 16. The atrocities in Manchester have given us a very clear signal about this. So I believe that this legislation balances the need to ensure that justice is served on those who commit the most serious crimes, but, as far as those who participate in lower-level activity, my noble friend the Minister may wish to comment further on this and on the issue of deradicalisation and reintegration into normal society, because it is all of real significance.

I happen to be the Prime Minister's trade envoy to Algeria, and it may come as a great surprise to know that as, perhaps, an enduring result of the terrible war of independence, the Algerian Government, in addition to observing the rise of religious extremism, initiated at an early stage a really comprehensive and much-admired deradicalisation and reintegration policy. This has been most successful inasmuch as very few young Algerians went to support ISIS and, indeed, the mass demonstrations that have been taking place there have never been captured by religious extremists.

I conclude by saying that this legislation will see our most dangerous terrorists spending longer in custody while more effectively managing those who have been released. Therefore, I support the Bill.

3.51 pm

The Lord Bishop of Manchester (Maiden Speech) [V]: My Lords, I begin by expressing my thanks to the parliamentary staff and fellow Members of this House, who have both welcomed me and helped me understand something of the workings of this place. I also congratulate the noble Lord, Lord Vaizey, on his excellent and entertaining maiden speech reminding us of the importance of rehabilitation—not only for sacked

government Ministers. I declare my interest as chair of the Greater Manchester police's Ethics Committee, which is recorded in the register.

I believe I may be unique among the Lords Spiritual in serving as Bishop of the diocese in which I was born, brought up and educated: I am a Bishop from Manchester as well as Bishop of Manchester. My education at the Manchester Grammar School taught me the proud history that Manchester and its surrounding towns have in women's suffrage, the trade union movement and the extension of parliamentary democracy as well as this region's place at the innovative heart of the industrial revolution.

In Manchester, I learned my love of numbers, going on to read and research mathematics at King's College, Cambridge, before the blossoming of my Christian faith took me to Birmingham to study theology and, hence, into church ministry. I may be the only Member of your Lordships' House able to tackle that medieval conundrum—"How many angels can dance on a pinhead?" —from two distinct academic disciplines.

The culture of Manchester is best represented by the city's iconic image of the worker bee. However, bees are not only hard-working—they work together. Self-interest is subservient to the well-being of the hive. Manchester drew hard on that culture following the Manchester Arena terrorist attack of May 2017, to which noble Lords have already referred in this debate. It was my privilege to help lead my city in its response, and it is why I feel particularly called to speak in today's debate. When the authors of terrorism sought to divide us, we came closer together, linking arms across the diversity of our city and region, which is among our principal strengths. I am fiercely proud of how Manchester held its head up high in the aftermath of an attack not only on innocent concert-goers but aimed at our very way of life.

I support the aspirations of this Bill and many of the measures included in it. Our first response to the threat of terrorism must be to improve the ways we prevent terrorist atrocities being planned and executed. Reducing the risk to the public from particular known individuals, especially those who already have convictions for offences linked to terrorism, has a vital role in preventing would-be terrorists from forming and carrying out their plans.

However, we will not defy terrorism through legislation that provides a recruiting sergeant for those who wish us harm. Long prison sentences, such as that properly handed out in the recent trial for the Manchester Arena attack, send a strong signal about our commitment to public protection. However, we must remember that they extend the isolation of prisoners from their families and the moderating influence of the wider community while keeping them for longer in close proximity with those who might seek to increase or reinforce radicalisation. This is particularly a concern for the youngest offenders.

Secondly, reducing the level of proof required for some sanctions, such as TPIMs, to well below the balance of probability may give rise to a sense of injustice, one that stretches far beyond the individual to whom the sanction applies, undermining the support from across the community, which is our strongest weapon in the fight against radicalisation. I urge Ministers to provide this House, during the various stages through which this Bill will pass, with clear evidence that the positive impacts of the proposals will outweigh the unintended negative ones.

In this House, we have a responsibility to ensure that the Bills we pass into law unite our society rather than divide it. If we apply a legal sanction that protects us from one individual—but at the price of radicalising three others—we will not control the threat. Terrorist ideology has its own replication number, every bit as deadly as coronavirus. Our challenge is to pass legislation that brings together the diverse voices of our land and carries confidence across the broad range of political, religious and other communities with whom we share a common life.

I hope that we will listen to those voices, both from within and beyond this Chamber as we debate this Bill, and will make improvements to it that will win the trust of those who we will need as allies in what is our common cause to protect the people of our nation and the values upon which Britain is built. I look forward to continuing to be a voice in this House for the diverse communities that make up Manchester and, especially, for those who are not so often heard.

3.56 pm

Lord Ramsbotham (CB) [V]: My Lords, it is a great pleasure and privilege to follow the excellent maiden speech of the right reverend Prelate—the Bishop of, and from, Manchester—so soon after his introduction. Before being consecrated as Bishop of Manchester, he was suffragan Bishop of Dudley, being responsible for the interregnum between two Bishops of Worcester: Bishop Peter Selby—our most distinguished Bishop to Her Majesty's Prisons—and the present incumbent, Bishop John Inge, who takes such a keen interest in justice issues. As the right reverend Prelate has given early evidence of his intention to play an active part in the proceedings of the House, I look forward to many more contributions from him, particularly on justice issues.

Any legislation forged in the white heat following a dramatic offence risks the likelihood of being flawed because there has not been enough time to think through all the implications. The Prison Reform Trust, in its written evidence to the other place on the Bill, pointed out:

> "The government has not published the serious case reviews into the Fishmongers Hall and Streatham attacks despite these forming a substantive part of the policy and political justification for the measures in the bill".

The Minister confirmed this in his introduction.

I will focus on three issues: the current availability of deradicalisation programmes in prisons, the assertion that longer prison sentences protect the public and the removal of Parole Board hearings prior to release. Earlier this year, the Government made a commitment to double the number of counterterrorism specialist probation staff and increase the numbers of specialist psychologists, specially trained imams and the resources dedicated to training front-line prison and probation staff.

Currently, there are only two deradicalisation programmes used in prisons, neither of which has been evaluated. One is called the Healthy Identity Intervention, and this is supplemented by the Desistance and Disengagement Programme, which is designed to be

[LORD RAMSBOTHAM]
on offer to both prisoners and those released on licence. As programmes have very long waiting lists and delivery is limited by the significant cuts to both staff and resources over the last 10 years, their effectiveness is questionable, at best. In view of this, I ask the Minister whether the other government commitments that I mentioned have been implemented?

On longer sentences, my experience as Her Majesty's Chief Inspector of Prisons leads me to believe that the Minister in the other place, Chris Philp MP, was wrong when he said that keeping the most serious offenders off the streets for the duration of their sentences is the only way to be certain that the public are protected. It is true that people cannot commit crimes against the public while they are in prison, but all will be released and what matters is their state of mind when that happens. Treat them like animals and you will get animals. So little is done with, and for, long-term prisoners that it is small wonder that so many reoffend.

Finally, I am horrified that, because of the removal of early release, the Parole Board should not be required to carry out reviews of serious terrorist sentences and extended determinate sentences before release. Over the years, the Parole Board has made remarkably few mistakes and reviews are very much built into the system for releasing long-term prisoners. Parole Board panels are used to addressing up-to-date risk to the public as they interrogate staff who are in daily contact with a prisoner. My noble friend Lady Prashar, a former chairman of the Parole Board, who will speak later, knows far more about this subject than me. I assure her that I will strongly support any amendment that she may table to reverse this decision.

4.02 pm

Lord Morris of Aberavon (Lab) [V]: My Lords, I was fortunate in my time as a law officer that I did not have to advise on new terrorism legislation, so my advice on the detail of the Bill will be limited. Northern Ireland, for which I had a separate responsibility, enjoyed considerable calm in my time, although I had to adjudicate, in a diminishing number of terrorist-related offences, on whether to allow a Diplock court. In passing, I would favourably consider any temporary Diplock courts in England and Wales to help to reduce the backlog in crown court cases which have risen by 6,000 to 43,000. The option, at least, of a Diplock court should be closely considered. As a firm defender of jury trials over the whole of my professional career, I look forward to the Lord Chancellor's proposals.

My first point on the Bill is to question the efficacy of the Prevent strategy. How confident are the Government that it is producing results? It is sad that the independent review of the strategy cannot take place in the time limit imposed by statute. I commend the work of the previous independent reviewers and have a high regard for the work of the noble Lord, Lord Carlile. Given the new leeway which the Government require, I trust that Parliament will be given the opportunity of considering the revised terms of reference.

My second point is that reservations have been raised in the Commons about the use of polygraph tests to monitor compliance with licence conditions. We should not shy away from new mechanisms. Many, many years ago, under my Minister, I helped to pilot breathalyser legislation through Parliament. It was not without controversy, but now it is accepted as effective and permanent. I note that the Scottish justice system chose not to use polygraph tests due to lack of evidence of their effectiveness. I hope the Minister can put forward the Government's view of the differing approach of the law in Scotland and the law, as it will be, in England and Wales. Specifically, why are the proposals for England and Wales are preferred to those in Scotland? I am, of course, aware of their views in other fields.

Lastly, I am concerned, as a criminal lawyer, about the lowering of standards of proof for imposing TPIMs from balance of probabilities to reasonable grounds for suspecting, which is a very low standard. The Joint Committee on Human Rights and the independent reviewer, Jonathan Hall QC, are concerned about the proposed lowering of standards. As a life-long criminal practitioner, I share that concern. I note the views of the national convenor on counterterrorism. I would not wish to contradict the operational evidence given by the assistant chief constable, but I would bear at the back of my mind the maxim: "Hard cases do not make good law." I look forward to the Minister's detailed justification on this aspect.

I support the Bill, having observed with horror the tragedy at Fishmongers' Hall, involving caring members of one of my old universities, and other tragedies beyond belief, such as that in Manchester. The protection of the public must be a paramount consideration. Nevertheless, detailed questioning of the present proposals is more than fully justified.

4.06 pm

Baroness Prashar (CB) [V]: My Lords, I will focus on two aspects of the Bill. The first is the serious terrorism sentence introduced by Clauses 4 to 7 and the second is the removal of restriction of early release for terrorist prisoners introduced by Clauses 27 to 31. The Bill's objective is to ensure that victims and the wider public are protected for longer and to enable victims to feel safe for longer. I fully support that objective, but the principal consequence of these provisions is to remove the role of the Parole Board, a body I chaired between 1997 and 2000, in assessing risk to determine the safe release of the most serious terrorist offenders. Instead, offenders sentenced under these provisions will be released automatically at the end of their custodial term.

The Independent Reviewer of Terrorist Legislation, Mr Hall, has described this as "a profound change". He notes three immediate consequences. First,

"the possibility of early release, which acted as a spur to good behaviour and reform for offenders with long sentences",

will be removed. Secondly, he says that it removes

"the opportunity to understand current and future risk at Parole Board hearings".

Thirdly,

"child terrorist offenders, whose risk may be considered most susceptible to change as they mature into adults, have lost the opportunity for early release."

As a former chair of the board, I entirely agree with Mr Hall's concerns.

Parole is a vital stage in the risk management of those whose offending is serious enough to merit the imposition of an indeterminate or extended determinate sentence, including those convicted of the most serious offences. Parole is also a stage included in the special custodial sentence for offenders of concern and the Bill seeks to expand the remit of the sentence to include all terrorist offenders given a custodial sentence of over two years. Indeed, a paradox of the Bill is that on one hand it seeks to expand the role of the Parole Board in determining the risk of those convicted of less serious terrorist offences but, on the other, it seeks to remove the board from its role for offenders convicted of the most serious ones. How can this be logical?

No system for identifying future risk can ever be perfect and Mr Hall's review included a number of recommendations on how to improve the court process involving terrorist offenders. It also highlighted the important role that the board plays as part of the process of assessing risk. Justifications provided by the Government for removal of parole are not convincing and I am not sure they are totally evidence-based. Denying parole hearings removes a key incentive for prisoners to engage with efforts by authorities to address their extremist beliefs. It also reduces incentives for prisoners to comply with the prison regime more generally, which could put staff at risk of violence. This has been highlighted by the Prison Officers' Association as its biggest fear.

Then there are concerns about the fairness and proportionality of removing parole—authorised release for young adults convicted of terrorism offences where the maximum penalty is life imprisonment. The proposed changes would go against the recognition of age and maturity in other areas of sentencing by imposing the same conditions on children and young adults as on adults convicted of terrorist offences. It also runs counter to existing sentencing practice and evidence that this group is the most capable of change.

The need to reduce the risk posed by people convicted of terrorist offences is something we all agree on, but we must ensure that in the understandable desire to punish we do not undermine incentives to rehabilitate, or the arrangements in place to manage risk and protect the public. I am very grateful to other noble Lords: in particular to the noble Lord, Lord Ramsbotham, for highlighting the role of the Parole Board, and to the noble Lord, Lord Vaizey, in his maiden speech, for highlighting the role of art and culture in rehabilitation. I look forward to the Minister's response.

4.12 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I welcome the two maiden speeches we have heard today, particularly that of the noble Lord, Lord Vaizey of Didcot, and his focus on the sufferings of victims of the crimes that led to this Bill, and their families. I also commend the speech of the right reverend Prelate the Bishop of Manchester, who reflected on the suffering of Manchester after the arena bombing. I was at a service the following day in Sheffield, which also lost citizens in the attack. There was great sympathy across the north, and far beyond, for Manchester.

I thank too the Minister, the noble Lord, Lord Parkinson of Whitley Bay, for his introduction to the Bill. I know that he is particularly keen to hear from the Green Party, so I look forward to his response to my comments.

It is fortuitous that this debate follows on from the Oral Question on the probation service from the noble Lord, Lord Ramsbotham, on which I would have liked to address several supplementary questions to the Minister, one of which is particularly relevant to the issue I wish to raise in connection with this Bill. It is now 14 years since a Member of your Lordships' House, the noble Baroness, Lady Corston, delivered an excellent report on the way in which women offenders were being failed by the criminal justice system, and provided a map on the way forward. Very little action has been taken.

Women prisoners, as we know, are very badly catered for, being a very small percentage of the prisoner population and objectively different from male prisoners on multiple criteria. In the context of this debate, this is surely also true of women prisoners who need deradicalisation programmes. Do we have—are we planning to set up—programmes that are properly gender-informed? If the Minister cannot provide an answer now, could one be provided in future?

I make some general reflections on the Bill. Knee-jerk reactions in politics seldom age well: the scrutiny of history usually demonstrates them for what they are. "Lock them up and throw away the key" is a common reaction to awful events. What we need to do—what I urge the Government to do—is take a step back and look at what will make our society more stable and secure.

There is no doubt that we face threats from multiple ideologies: the racist neo-Nazi far right, QAnon, radical Islamism, Northern Ireland-related terrorism, the anti-female ideology known as incel—the list could go on. Anyone who commits a crime under any of those ideologies is of course entirely and solely responsible for their own actions and crimes and should be punished according to the law. We also need to think, however, about how we create a healthy society that does not feed and support the spread of these ideologies. That should be a primary focus of government attention: a public health approach similar to the one proposed—and delivered, in parts of these islands—on knife crime.

Last week, in talking about Covid-19 strategy, the noble Baroness, Lady Neville-Rolfe, said that a new and more thoughtful strategy from the Government was needed—and we also need that in relation to counter-terrorism.

The huge issues with Prevent will be addressed later by my noble friend Lady Jones of Moulsecoomb, but I ask for a broader view, not necessarily from the Minister today—I understand the time pressure—but from the Government more generally.

The noble Baroness, Lady Hamwee, noted earlier the vulnerability of lonely, isolated, poverty-stricken individuals to people who will exploit them. The more we address these issues—the more we close off opportunities for dangerous individuals to use others—the safer we will be. That is also relevant to anyone in public life: we should ask them to think about how their words and their approach can feed hatred, misunderstanding and racism, and fuel crime and abusive behaviour.

[Baroness Bennett of Manor Castle]

We have also seen how other criminal behaviour and terrorism can be interrelated or closely related—the abuse of illegal drugs, mental ill-health and social exclusion. All these issues need to be addressed.

Finally, I cannot finish this speech without expressing my concern about the planned use of polygraphs in this Bill. I will always stand up for evidence-based policy-making, and the evidence is that polygraph results are not a solid basis on which to make any decision. That the Government plan to do so is seriously disturbing. I note the Law Society of Scotland's reflection that

"there is a need for the responsibility, organisation, funding, monitoring and training involved to be addressed as part of the Bill if polygraphs are to be introduced."

Those things need to be covered in the Bill. I also understand the Law Society of Scotland's concerns about polygraphs being imposed on that nation and its observation that

"Retrospective legislation is not usually introduced because it does not comply with Article 7 of the European Convention on Human Rights."

However, applying polygraph tests to previous offenders appears to do just that.

4.17 pm

Lord Sheikh (Con) [V]: My Lords, to effectively tackle terrorism we must use a combination of radicalisation prevention, rehabilitation and punishment. This Bill is not balanced: it places too much reliance on punishment. We must effectively address the root causes and implement real solutions to deal with the problems of radicalisation, extremism and terrorism.

To stop radicalisation and terrorism we must not merely apply stronger punishments. I am actively involved in the issues of radicalisation and terrorism, having prepared two reports on the subject and spoken about it in your Lordships' House and elsewhere. I have also been very effective in dealing with the issues in the community. To deal with these problems we need input and participation in the form of new partnerships involving the Government, the police, local authorities, prisons and members of the community at all levels. We need a holistic approach—that is what may work. Unfortunately, a tiny minority of Muslims have been radicalised and committed terrorist acts. These Muslims go against the peaceful principles of Islam.

I recently asked a Question in the House about the lack of diversity in the justice system, and I have written to my noble friends Lady Williams and Lord Greenhalgh asking for their support for an in-depth study of Muslims in prison. I have not yet received a reply, so I ask my noble friend Lady Williams to comment on my request, and on the points I made about radicalisation, in her response.

I refer now to the important matter of the Prevent strategy. I repeat what I said in this House in November 2018:

"The Prevent strategy has caused concerns and raised objections. Some critics of the strategy have said that there is racial profiling, excessive spying and the removal of basic civil liberties from innocent individuals."—[*Official Report*, 12/11/18; col. 1737.]

It is imperative that a suitable person is appointed to review the strategy and, importantly, that that person's terms of reference must be reconsidered and be appropriate. The terms should, for example, include full consultations with communities.

Furthermore, it is important that a new date for the review, which must be adhered to, is fixed; otherwise, the matter may be kicked into the long grass. I ask the Minister to comment on this point and what I have said about the Prevent strategy.

I will now refer briefly to some of the Bill's provisions. Due to constraints of time, I do not have a great deal to say. I am concerned about the Bill's blanket approach to stopping release at the two-thirds point of the custodial sentence for certain offences and removing any early releases for the offences. Preventing the possibility of early release in this way will have unintended consequences, especially for those who were radicalised when vulnerable and have genuinely reformed in prison. Assuming that this is never the case is unfair and may undermine the chance for effective reform. Instead, I suggest we continue to implement the TORER Act 2020, as this considers individual circumstances. We cannot generalise when it comes to rights.

I am also concerned about how the Bill approaches the increasing severity of non-terrorist sentences considered to have a terrorist connection. In a climate of intolerance, it is possible that members of BAME communities would receive harsher sentences. Unfortunately, this is already happening, and I have said so previously in your Lordships' House.

I want to express my worry about expanding the list of offences that can result in a sentence for offenders of particular concern. It begs the question of how an offender of particular concern will be determined. The sentence may be open to misinterpretation and bias, particularly if sentencing occurs in the wake of an unpleasant incident.

Finally, I express my disquiet about lowering the standard of proof for TPIMs and removing the two-year limits, which can cause problems. This, again, is open to greater interpretation, and the power to indefinitely impose conditions could undermine civil liberties by increasing surveillance. In conclusion, this is an important Bill, and we need to look carefully at its provisions.

4.33 pm

Lord Anderson of Ipswich (CB): My Lords, this is an important and well-prepared Bill, but not a perfect one. On Part 1, I respectfully adopt the points of sentencing so authoritatively made by the noble and learned Lord, Lord Thomas of Cwmgiedd. On Part 2, I associate myself with the remarks of my noble friends Lord Ramsbotham and Lady Prashar, and the concerns expressed by my successor-but-one as Independent Reviewer of Terrorism Legislation, Jonathan Hall QC, regarding the removal of Parole Board discretion. If the possibility of early release can encourage good behaviour and reform, we should think carefully indeed before discarding it.

I will focus on the changes to TPIMs, the successors to Labour's control order regime of 2005 to 2011, proposed in Part 3 of the Bill. For six years, I closely monitored the operation of TPIMs. Like the Government, I believe they are unfortunate necessities for a small number of dangerous terrorists who cannot be detained for long periods under criminal investigation, as in

some continental legal systems, and who cannot be placed on trial or convicted, because the intelligence that identified their plotting is insufficient to meet the criminal standard or cannot be publicly disclosed without endangering a human source or vital investigation technique.

TPIMs are severe measures and are designed to be so. They are imposed by the Home Secretary, who, in contrast to a criminal court, is not constrained as to the nature of the intelligence material she may take into account. Measures may include, among many, compulsory relocation to towns or cities far distant from the subject's home. Relocation is harsh but effective. Removed by the coalition in 2011, it was reintroduced, on my recommendation, in 2015.

Any breach of any restriction, which would include, under Clauses 41 and 43, polygraph measures and drug-testing measures, can result in imprisonment for up to five years. Judicial review of TPIMs takes many months to come on, and since the intelligence relied on can often not be disclosed, it requires the subject to defend himself, without knowledge of the detailed case against him, through a special advocate who cannot take instructions from him.

That severity has, until now, been mitigated by two factors introduced by the coalition Government in 2011. First, TPIMs have a maximum duration of two years, save in exceptional cases—a limitation originally recommended by the noble Lord, Lord Carlile, in a report of February 2008. Secondly, the Home Secretary is required to have not just a "reasonable suspicion" of involvement in terrorism but "reasonable belief", on the balance of probability, as it is now expressed.

The two-year limit is a reminder that executive constraints of this kind can be no substitute for the criminal process and no long-term solution, even if, as I said in 2013, echoing the noble Lord, Lord Carlile, five years earlier, it is tempting to wish for longer in the most serious cases. Each of those mitigating factors, as has been said, would be reversed by this Bill.

Let me offer a comparator, which, while not exact, may be illuminating: the reasonable suspicion required of the Home Secretary by Clause 37, is the same standard that must be reached by a police officer to justify an arrest. Yet arrest without charge, even in a terrorist case, is tolerated in this country for only four days, extendable to a maximum of 14 days by repeated permission of the court. Noble Lords will remember unsuccessful attempts to increase that maximum to 90 and then 42 days. Yet under this Bill, the reasonable suspicions of the Home Secretary would be sufficient if she judged it necessary for the protection of the public—a judgment unlikely to be effectively reviewable in any court— to justify a form of house arrest that can persist for many years.

The Government now have huge experience with these orders, including their possible imposition on more than 400 people having returned from Syria to this country. So, it is significant that the Minister Chris Philp candidly accepted on Report in the other place, consistent with evidence given by Assistant Chief Constable Tim Jacques in Committee, that

"there has not been an occasion on which the security services wanted to give a TPIM but could not do so because of the burden of proof."—[*Official Report*, Commons, 21/7/20; col. 2093.]

We should investigate whether there is a better balance to be struck consistent with the enhanced public protection that the Bill aims to provide. Options, as the independent reviewer has suggested, include an upper limit in excess of two years and the retention of the current standard of proof, if not in all cases then at least beyond the initial period, which would take care of any valid concerns there may be about urgent cases.

I hope that the collective wisdom of the House will be brought to bear on the Bill in this respect.

4.28 pm

Lord Hunt of Kings Heath (Lab): My Lords, first, I remind the House that my wife is an adviser on the Prevent programme in the further education sector.

The horrific attacks we have seen at Manchester, Streatham and Fishmongers' Hall have demonstrated the risk the UK faces from terrorism. I am broadly supportive of the longer sentences contained in the Bill for dangerous terrorism offenders. But we should be mindful of the words of the noble and learned Lord, Lord Thomas, my noble and learned friend Lord Falconer and the noble Lord, Lord Anderson.

But one concern I have, mentioned by other noble Lords, is the extent to which rehabilitation and deradicalisation programmes will be put in place to accompany the longer sentences. We know in the case of Fishmongers' Hall and Streatham that the attacks were committed by individuals who had been convicted, had been in prison and, as my noble and learned friend Lord Falconer repeated, seemed to have been neither deradicalised nor deterred by their time in prison. Indeed, prison may have made them worse.

The impact assessment refers to research that shows a risk of offenders radicalising others during their stay in custody. This is well known, and I hope that when winding up, the Minister spells out the details of what is proposed for supporting and expanding the rehabilitation programme. Can she say how much progress has been made in implementing the report by Ian Acheson into Islamist extremism in prisons? My noble friend drew attention to the fact that the Government accepted only a small number of its recommendations. I remind the Minister of a paper published last year for the Centre for Social Justice, in which Ian Acheson had some trenchant criticisms of the prison regime:

"Unfortunately, our current prison system seems to catalyse rather than remedy the very conditions which create offending. Squalor, indolence and brutality have become normalised within the walls of many of our jails… Ruinous cuts, inflicted on front line staff as the prison population increased, have made a mockery of a rehabilitation culture when staff routinely suffer serious assaults and cannot themselves feel safe at work, let alone be able to deal with record levels of prisoner self-harm."

These are simply not the circumstances in which you can expect to conduct successful deradicalisation programmes. These must go alongside the longer sentences proposed in the Bill.

As someone who was on the Front Bench opposing the introduction of TPIMs and the removal of control orders in 2011, I find it tempting to go back to those debates, but the noble Lord, Lord Anderson, has pointed to a number of issues that have arisen since

[Lord Hunt of Kings Heath]
the abolition of control orders. I am afraid that as this is the Home Office's second go at strengthening TPIMs, it only goes to show that what we warned about in 2011 needed to happen.

One issue in relation to TPIMs was raised with me by the West Midlands Police and Crime Commissioner, David Jamieson. Obviously, TPIMs involve extreme resource-intensive measures which must be used proportionately and only when necessary. David Jamieson argues that some local oversight would enhance the ability of the Home Secretary to make an informed decision when considering a TPIM application, variation or extension. PCCs could submit additional information or make recommendations to the Home Secretary in respect of the community impact and the impact on local policing resources which, as I said, can be intensive as far as a TPIM is concerned.

In today's debate on sentencing, one speaker raised the point that local authorities were not mentioned in the White Paper. I hope that the Minister gives some thought to this suggestion. Perhaps I will return with a probing amendment in Committee.

4.33 pm

Lord Garnier (Con): My Lords, this Bill contains some necessary and useful provisions, but it may take some time to be sure. We are still assessing the good effects of the Counter-Terrorism and Border Security Act 2019 and the several terrorism statutes passed since 2000.

Of course, this Government are reacting understandably to the attacks in London and Manchester, and perhaps even to those in Salisbury, and I fully accept the context laid out by my noble friend Lord Parkinson in his very clear opening to this debate. The security services are aware of hundreds of potential or actual plots, many of which, thankfully, they disrupt before any harm is done. They and the police are stretched but perform with great bravery and resilience to protect us from homegrown and foreign attacks, and nothing that I say detracts from my admiration and gratitude for what they do.

I refer to my registered interests as a practising member of the Bar and as a trustee of the Prison Reform Trust. I also welcome the right reverend Prelate the Bishop of Manchester, and congratulate him on his maiden speech, a thoughtful and considered contribution to our proceedings, which I hope will be the first of many. His home city recently suffered a terrorist attack, by no means the first in his diocese in his or my adult life, so he speaks with knowledge and insight. Our constitution is eccentric in permitting not only unelected Lords temporal, but also unelected Lords spiritual to legislate, but as he has just demonstrated, it is an eccentricity that we should celebrate.

My noble friend Lord Vaizey of Didcot has also given us a taste of things to come. He and I were not only Members of Parliament at the same time, but also Ministers at the same time. However, whereas I was in office for just over two years—metaphorically, 15 minutes—he served as Culture Minister for over six years, longer than any previous holder of that post. The son of Marina Vaizey, the writer and art critic, and the late Professor John Vaizey—Lord Vaizey, the academic and economist—my noble friend is not a man given to political hyperbole. He is a wise and thoughtful man. We will hear from him, often I hope, on subjects he has a deep knowledge of and great affection for. We are fortunate that he has joined us.

Regarding the Bill, I agree with lengthy sentences for those guilty of serious terrorist crimes, and whole-life terms if appropriate, but in the time available, I highlight just one subject, covered in Clauses 27 to 31: the release of terrorist offenders. This part of the Bill, which covers all three United Kingdom jurisdictions, will in essence remove from the Parole Board—I use that term generically—the power to direct the early release of certain dangerous terrorist offenders—that is, those terrorist offenders found to be dangerous by the sentencing court at the time they were sentenced, and where the offence carries a maximum of life imprisonment. These provisions apply to the most serious terrorist offences such as attack planning, directing a terrorist organisation, or giving and receiving terrorist training. They will also apply to manslaughter, kidnap and possession of explosives, when the court finds these were connected to terrorism.

I can understand that at first blush, and without giving the matter a great deal of thought, this might seem entirely reasonable. Why should offenders in that category be released at all, let alone early? There will, I accept, be some such offenders whose early release would not be recommended by the Parole Board because they remain as dangerous to the public after years in prison as they were when they were first sentenced. As always, I will defer, and have deferred, to the knowledge and expertise of the noble Lords, Lord Carlile and Lord Anderson.

However, before we remove the Parole Board from the picture, should we not pay attention to those noble Lords' successor as Independent Reviewer of Terrorism Legislation, Jonathan Hall QC? In his note on this Bill, dated 1 June 2020, he described the removal of the Parole Board's role of considering the early release of the most dangerous individuals convicted of terrorist offences as a "profound change"; clearly it is. He points to three immediate consequences: first, to the extent that the possibility of early release acts as a spur to good behaviour and reform for offenders who are going to spend the longest time in custody— that will now go; secondly, the opportunity to understand current and future risk at Parole Board hearings will be removed; thirdly, child terrorist offenders, whose risk may be considered most susceptible to change as they mature into adults, will have lost the opportunity for early release.

The Government may very well have cogent reasons that justify Clauses 27 to 31, and if they do, I will pay close attention to them, as I am sure the noble Baroness, Lady Prashar, will too. However, given that the independent reviewer is there to provide his considered opinion on the matter, we should perhaps pay careful attention to what he has had to say as well.

4.39 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, I am speaking on my telephone because of various IT failures; I apologise for that and hope it is clear.

I welcome our two new Peers: the noble Lord, Lord Vaizey, and the right reverend Prelate the Bishop of Manchester. They both used humour in their speeches. I think they will find in future that other Peers listen harder if there is the potential for a laugh.

Many noble Lords with much more experience of counterterrorism have spoken today and I applaud those who were critical of the Government. However, for the average member of the public who might be listening, I will explain a little of what is happening in very simple language. The Prevent issue is a government omnishambles. For example, the legal deadline for the review, which was meant to be an independent review and for which many of us were waiting with bated breath, was missed. The deadline passed and no new deadline was set. This Bill now removes any deadline at all; it does not replace a deadline to produce the review. Given that the Government did not want an independent review in the first place, one can imagine that there is no sense of urgency.

Moreover, the independent reviewer they appointed was challenged. He stood down and a new reviewer has not been announced. In fact, the Home Office website has not been updated since April, so I am not sure what is going on there. It is all shambolic. These are self-inflicted delays, and a new statutory deadline should be in this Bill so that we all know when we can expect the independent review of Prevent.

The issue around TPIMs is rather nastier. Making it an indefinite procedure, with no change if there is a change in circumstances, is inhuman. Worse, the Bill changes the legal test for imposing a TPIM from "the balance of probabilities", which is about 51%, to "reasonable grounds for suspecting". This is an incredibly low threshold. Anyone would have great difficulty convincing a judge to stop issuing a TPIM if it is only at this level of value. It is very difficult for a judge to prove or see that something is obviously wrong; the balance of probabilities was a much fairer way of measuring the impact of somebody's activities.

This Bill is a real shame, and I am delighted that there are so many noble Lords able to tear it into little pieces. I hope that the Government will listen to common sense.

4.42 pm

Lord Carlile of Berriew (CB): My Lords, first, I thank the Minister for the clarity of his opening to this debate. I too pay tribute to the two memorable and entertaining maiden speeches which we heard. I look forward to hearing from both noble Lords frequently in future.

I think people have been trying to tempt me into saying something about Prevent. I will not, save this: I hope my successor as independent reviewer of Prevent will be given access to the very large body of evidence which I was able to collect, and will make his or her mind up quite independently, without any attempt at influence from me.

This Bill's focus is the protection of the public, and we should not for one moment lose sight of that primacy. I support aspects of the Bill strongly, but at the outset I will refer to one briefly which I do not support: the relegation of the Parole Board. I agree completely with my noble friend Lord Anderson, the noble and learned Lords, Lord Garnier and Lord Falconer, the noble Baroness, Lady Prashar, and others who have spoken about that.

However, I agree with the strengthening of sentences for terrorism-related offences, which are a very specific and unusual group of crimes. What is more important than the protection of the public from those who are released from prison at the end of terrorism offences, or from those who are radicalised in prison and released? In considering that, we should reflect on this: surely, if the release of a terrorist puts the public at risk, the crucial balance between rights and duties must justify properly regulated and proportionately extended detention.

I support the strengthening of TPIMs covered in Part 3. As a former independent reviewer, I had the scrutiny of the full period of control orders. They worked well; they were supported by the courts; the standard of proof was adequate; they were justiciable. For all the years since control orders were replaced with TPIMs by the coalition Government, I have called for their return. In effect, that has now been done, and I think it is correct. As I said, I believe the standard of proof is fair, tested and justiciable.

It is right that the evidential basis for release of terrorist prisoners should be as complete as possible, including psychiatric and neurological assessment. Polygraphs are not magic; they determine little on their own, but in various other areas they have been demonstrably useful as part of the toolkit used in the determination of truth. I see no strong argument against their use in that way in this context.

In the time left to me—in this speech—I want to be clear about the nature of the challenge we are dealing with, by reference to the Fishmongers' Hall incident, which is very instructive. The perpetrator terrorist, Usman Khan, had been assessed as reformed and deradicalised by external experts, some of whom were present at Fishmongers' Hall. However, evidence from the prison from which he was released—in my possession and provided to the Home Office some months ago—shows the following. First, almost none of the day-to-day custodial staff who knew him and dealt with him on a daily basis believed he was anything other than extremely dangerous at the time of his release—they were proved right. Also, unknown to the outside experts, in that prison radicalisation was not just in existence but rampant. For example, it included Friday prayers where there was a division into two groups, radical and non-radical, which a perfectly decent imam could not control; and within the prison, sharia courts meted out punishments that included floggings—inside the prison and known to the prison staff. Those are facts.

Before we can be comfortable with advice about release and release decisions, there must be far better management and verification of desistance and disengagement programmes, and of the prisoners who are part of those programmes. This is too important an issue for anything less.

4.48 pm

Lord Mann (Non-Afl): My Lords, I join in the welcome to the noble Lord, Lord Vaizey, and the right reverend Prelate the Bishop of Manchester, who I am certain will continue to make such excellent contributions

[LORD MANN]
to this House on a regular basis and will be a big asset. I also congratulate the noble Lord, Lord Parkinson, on his very convincing introduction; I had read what the Government were proposing in advance, but he eloquently outlined why and I see no objections to the way in which they are approaching this legislation. It seems that it should meet with widespread approval.

I declare an interest as a volunteer on the Government's advisory board, along with a number of other noble Lords. I wish to raise the issue of voluntary organisations and how they may contribute to counterterror work, specifically the example we have in this country, which is without question the best such example anywhere in the world—the Community Security Trust, which provides security and co-ordinates with the security services—using the term in its widest sense—in this country, and has done so for some considerable years to great effect.

There was a time when a number in the Jewish community were rather blasé and complacent about the need for the organisation. Some would raise it discretely with me, 10 years ago perhaps. They have been shaken from that complacency by seeing what has happened in this country in terrorism generally and, more specifically, what has happened to the Jewish community in other parts of the world. It is not an exaggeration to suggest that there would be people who would be alive if some other countries had been able to have an organisation that mirrored the Community Security Trust in operation. I am talking about wealthy and advanced countries, in Europe and North America, where there have been terrorist outrages against the Jewish community. Often, when you have something working so successfully and brilliantly, one ignores it, because the sensational headline is not there, precisely because of the mundanity of everyday successful work.

The reason for raising this in this debate, other than to bring further attention to the success of Gerald Ronson and the Community Security Trust, is that the Home Office has, within its powers as a department, very responsibly part-funded the Community Security Trust over the years and backed up the money that Mr Ronson and others have raised—and they have been substantial amounts. The CST is potentially transferrable to other communities in this country. I know that in recent times there have been significant discussions between the CST and Government about the initial work that the CST has done to train and equip other communities in this country to similarly organise and defend themselves against the threat of terrorist attack, from wherever it may come. There are many different directions and ideologies that could lead to attacks on any one community.

It would be wise for the Government to invest in facilitating the speeding-up of the work being done by the Community Security Trust with other communities. That would be to the advantage of the nation. I strongly implore the Government to see whether that support to speed up and deepen the work already going on can go further and faster. To those listening from other countries, I think that more countries should be coming, looking, observing and learning the lessons of this great British success. The Home Office has played its part; I simply urge it to choose an even bigger and wiser part to play in the near future.

4.53 pm

Lord Judge (CB): My Lords, we are all agreed that terrorism has the most dreadful consequences and we all feel a deep sense of compassion for the victims of terrorism and their families. It has a societal impact too, beyond the suffering of individuals and their families. One of the societal consequences is highlighted in the Bill, in the proposal that we should have legislation leading to a reduction of the freedom of individuals on the basis of suspicion alone. That is a grim consequence. It may have to be faced, but we should recognise it. And when we face up to it, we also have to address another simple fact. I suspect that all noble Lords know of cases—I certainly do—where individuals have been arrested with reasonable grounds for suspicion, who have turned out to be completely and utterly innocent. It is something worth bearing in mind.

Your Lordships have addressed all the issues, so I am not going to repeat them. I will merely say thank you very much and think of something new to say. It concerns the sentencing decision. Anybody who has had to pass a sentence will know that a sentencing decision is not as easy as it may look on paper. You are dealing with a human being who has upset, offended, injured, damaged or murdered another human being. Everybody is involved. A judge facing a sentencing decision—and this is no time for a lecture on it—has to balance a series of factors, some of which are totally contradictory.

Related to that, fixing different aspects of the sentencing formula is dangerous, but we have decided to do it by having a provision that enables the defendant who indicates an immediate intention to plead guilty to the crime with which he is charged to have a discount against his sentence of one-third. I can argue with you about the wisdom or unwisdom of that, but it is what we have. The Bill proposes, in exactly that situation, to reduce the discount to 20%—from one-third to one-fifth.

This matters. It is easy to say that it is just paper, but let us think of the value of an early guilty plea. The victim of the crime knows that that part of this awful process is over. He or she will not be challenged about his or her evidence. It will not be suggested to a woman who says she has been raped that she consented. It will save the victim a huge ordeal to know for certain that that is now over. It also saves the time and trouble of police officers who have to give evidence, forensic scientists and the whole process of the court. It also saves the court's time, so that it can move on to deal with the huge backlog of cases that there currently is. It knows that that time will be available.

So when we talk about the sentence being reduced or a discount for a guilty plea, we should remember the value to the victim of closure: the fact that the problem can now be addressed and that the long uncertainty will not be hanging over him or her for 12 or 18 months; and the value to the public interest, which means that that is the end of it, apart from the sentence. In terrorist cases, that value is just as great as it is in any other. I know I will be told by the Minister that there is a precedent for this. It is a bad precedent. It is illogical and it should not be followed in this case. You cannot increase sentences for those convicted of

terrorism offences, which I support, by devaluing the guilty plea of those who are willing to admit from the outset that they are guilty.

I have one other tiny observation. Can we be careful not to assume that the Newton hearing, which gets a mention in the Explanatory Note, is an answer to the potential danger of finding that somebody is being treated as though he has committed a criminal offence for which he has not been tried, let alone convicted?

4.58 pm

Lord Thomas of Gresford (LD) [V]: My Lords, the noble Lord, Lord Carlile, crystallised the focus of the Bill as the protection of the public, and I think that is generally understood. Terrorism is a cancer in our society. The Minister, the noble Lord, Lord Parkinson, is to be congratulated on the clear way in which he opened the debate; he said that it was ever-evolving. The question is whether it can be cured by more of the same. As the noble Lord, Lord Ramsbotham, pointed out, all will be released in the end. Treat prisoners like animals and you will get animals. The noble and learned Lord, Lord Falconer, referred to the research that demonstrates that time in prison has exacerbated the situation of radicalisation.

The noble and learned Lord, Lord Thomas of Cwmgiedd, raised the question of minimum sentences. He pointed out that they are dubious where there is a large range of behaviour covered by a particular offence. He said that guidelines are available, judges are few and courts have been very tough. That view is supported by the noble Lord, Lord Anderson, and very much by me.

I also support the noble and learned Lord, Lord Judge, who pointed out that a sentencer deals with people and called for the value of an early guilty plea to be maintained.

I very much regret that the independent review of the Prevent strategy has been delayed. Times have changed and there are as many referrals for right-wing extremism as for ISIS-inspired extremism, and this needs urgently to be addressed. In its inception, Prevent focused only on Islamist terrorism, but a feeling grew that Prevent encouraged Muslim communities to spy on each other. That led to some Muslim communities refusing Prevent funding and rejecting engagement from the start. The coalition Government reduced the budget for Prevent in the name of austerity and chose largely to end community-based Prevent work, with only a limited programme of local activities in Prevent priority areas controlled from London by the Home Office.

The revamped Prevent programme in 2011 was primarily about identifying and diverting individuals vulnerable to radicalisation—whether Islamic, right-wing or other forms of extremism, but excluding Northern Ireland. It operated through the Channel anti-radicalisation mentoring and counselling system. The problem is, as exhaustive academic analysis has demonstrated, that there is no definable set of indicators or social and economic circumstances, no identifiable conveyor-belt process, that can predict who will move towards terrorism, when and why.

The Prevent legal duty, introduced in 2015, was to place a duty on all state education, social welfare and health professionals and their institutions to implement the Prevent strategy. But questions remain. Should safeguarding be about protecting the needs and interests of vulnerable individuals or safeguarding wider society from those same risky individuals? What are professionals—doctors, teachers and social workers—being asked to spot and report? What warning signs of radicalisation should they be aware of and look for? Who trains the professionals and what is the quality, clarity and helpfulness of such training? Are teachers required, when they inculcate fundamental British values, to consider that they may be treated with suspicion?

As for TPIMs, I think the noble Lord, Lord Carlile, was the only person apart from the Minister to speak in favour of a return to control orders. The noble Lord, Lord Anderson, pointed to the severe measures that are involved. The Home Secretary is not bound by the constraints of admissible evidence. The noble Lord pointed out that, when challenged by judicial review, the applicant does not know the case against him and is represented by a special advocate who cannot take his instructions. The removal of the two-year time limit originally recommended by the noble Lord, Lord Carlile, with no limit on renewal, equals a loss of liberties and a loss of freedom without trial.

The standard of proof being reduced to reasonable grounds for suspicion was referred to by my noble friend Lord Paddick as the standard used by police officers, where the bar is very low, and the noble Lord, Lord Anderson, compared it to an arrest without charge, where detention can last only four days without anything further. The "reasonable suspicion" of the Home Secretary results in an indefinite form of house arrest. That reduction of the standard of proof, it was suggested, should last only for the first two years, if the Bill goes through.

However, the right reverent Prelate the Bishop of Manchester raised the essential question of whether the lowering of the standard of proof will undermine support in the community, which is our strongest defence against extremism. The Minister's explanation that lowering the standard improves "flexibility" is completely incapable of being understood, and I agree with my noble friend Lady Hamwee, who said that "flexible" is indeed a weasel word.

The noble Lord and learned Lord, Lord Thomas of Cwmgiedd, asked whether the test of the Minister's subjective suspicion was capable of legal scrutiny. There is strong evidence that TPIMs cause individuals to lose hope and become more dangerous. He is quite right that the exercise of this power should be subject to judicial approval and not left to challenge by judicial review in circumstances such as I have outlined. The noble Lord, Lord Kirkhope, described the provisions as a watering down, a tool of last resort, and the noble and learned Lord, Lord Morris, with great experience behind him, said that hard cases do not make good law.

I come to release by the Parole Board. The noble Lord, Lord Ramsbotham, pointed out that the Parole Board makes remarkably few mistakes. It addresses up-to-date risk to the public by interrogating the offender and has a vital role to monitor police, probation and security services. As the noble and learned Lord, Lord Falconer, pointed out, prison management problems

[Lord Thomas of Gresford]
arise where there is no prospect of relief, and the noble Baroness, Lady Prashar, who has great experience, said, "Do not undermine incentives to rehabilitate". As the noble and learned Lord, Lord Garnier, pointed out, the current independent reviewer takes that view as well.

I have spoken many times of the problems of Berwyn prison, near where I live, where there are unsafe prison conditions. In the year ending March 2020, the finds of weapons amounted to 18 finds per 100 prisoners. There were 29 incidents of prisoner-on-prisoner assaults per 100 prisoners in the same period. Such prisons are not safe and provide a breeding ground for radicalisation through the befriending of a vulnerable person. On the present trajectory, there will be young men who are groomed and radicalised within the prison estate by people who appear to be showing care for their welfare. The failure to address problems in prisons has been referred to by many academics as producing radicalised and dangerous youths.

There are many issues in this Bill which we need to address and consider in Committee, and I look forward to Committee stage.

5.08 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, I, too, congratulate the two maiden speakers. The noble Lord, Lord Vaizey, spoke about the importance of arts and sport in prisons, and I know from my experience that that is indeed an important aspect of the rehabilitation process. The right reverend Prelate the Bishop of Manchester spoke about the experience of Manchester through the bombing and his expectations of the Bill with a particularly perceptive analysis, and I look forward to his contributions through its later stages.

The measures in the Bill build on recent emergency legislation. They are based on the Government's conclusion that there are some terrorism offences where the maximum sentence available is too low for the gravity of the offence committed. Since 2000, the Government have enacted 11 different pieces of legislation, with a ratcheting up of the sentences and controls available to the courts. The Bill provides changes in the sentencing, release and monitoring of terrorism offenders.

We on the Opposition Benches will not be opposing this legislation, but the elephant in the room, which has been discussed although it is not part of the Bill, is the effectiveness of the de-radicalisation programmes and the Prevent programme: they are not working sufficiently.

The point was made by a number of speakers on this Bill that just adding extra time for the offenders to spend in custody will not solve any problems unless there are better-tailored programmes. It was made by my noble and learned friend Lord Falconer, the noble Lord, Lord Sheikh, and my noble friend Lord Hunt of Kings Heath, who went on to make the important point that there needs to be full resourcing of deradicalisation programmes, as they are very resource heavy.

I have been contacted by two trade unions, the Prison Officers' Association and the National Association of Probation Officers. Their members are on the front line and have to deal with the consequences of legislation. The POA makes a number of points—first, that this legislation will inevitably lead to an increase in the cohort of prisoners detained under the Terrorism Act; it is currently about 230 prisoners. Consideration will therefore need to be given to the headroom available in the long-term high-security estate, with the ability to separate Islamist and far-right terrorist offenders. What plans do the Government have to meet this expanded population?

The second question the POA has raised is the same point made by Peter Dawson, director of the Prison Reform Trust and a former prison governor, that denying prisoners hope will cause their good behaviour to deteriorate. This will potentially lead to an entrenchment of a sense of grievance, which can be dangerous for both prisoners and staff. This point has been made by many speakers in today's debate. It also re-emphasises the point that it is mistaken to remove the Parole Board from considering certain types of terrorist offences. This too may enhance a sense of grievance with certain prisoners.

NAPO has raised points on how the proposed changes will affect its members, the probation officers. In particular it mentions MAPPA, the Multi Agency Public Protection Arrangements, which are briefly mentioned in the Bill. The Bill does not mention the agencies to be included within MAPPA, but clearly it would include enforcement agencies such as the police and the Prison and Probation Service. I and NAPO believe it very important that other agencies—such as mental health agencies, social services and NHS England—are included in this as well. The point is that all these agencies should be named and have a statutory obligation to work collectively. This is a point the noble Lord, Lord Paddick, made and one we have seen in many other aspects of work in the Courts Service, not only in the context of this Bill.

The probation officers further referenced Clause 5 of the Bill, under which non-terrorist offences with a maximum sentence of more than two years can be found to have a terrorist connection and their perpetrators therefore sentenced under the Counter-Terrorism Act. The Bill does not define what a terrorist connection is—presumably this is for the court to decide—but I argue that, without some guidance or statutory definition, this could lead to a widening of the net and inconsistency in sentencing between cases.

On TPIMs, my right honourable friend David Lammy at Second Reading in the other place gave a succinct history lesson on the changes from control orders in 2005. We have had a similar history lesson today from a number of distinguished noble Lords. The central point made by my right honourable friend is that in a sense we are going full circle. The noble Lord, Lord Carlile, supports the lowering of the standard of proof, and Jon Hall, the reviewer, has raised concerns about the removal of the two-year limit on TPIMs so that they could effectively be indefinite. This is something we wish to examine closely as the Bill progresses in this House.

A further point is that a balance needs to be struck. We are dealing with people who are not guilty of any offence but suspected of terrorist activity. The balance is between liberty and security, and the wider

community—particularly the community from which the suspect comes—needs to see that what the Government are doing is proportionate and that people are not wrongly convicted.

I am not a lawyer, and maybe I do not give proper weight to the importance of particular definitions of proof, but for me the central point is that the safeguards need to be in place to protect innocent people while protecting the public from potential acts of terrorism. The public need to understand that this is the primary purpose of this legislation.

I am very aware that many speakers in today's debate have been active in and following this type of terrorism legislation for many years, but in recent days I have spoken to many young people who are also following these debates. We need to remake the arguments for all the elements in this Bill. We need to convince young people that the legislation is proportionate and necessary and strikes the right balance between liberty and security.

In opening, my noble and learned friend Lord Falconer said that the detail of this Bill matters a lot. I agree. It is the role of this House to look at the detail and steer this Bill to a suitable conclusion.

5.16 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I thank all noble Lords who have taken part in this Second Reading debate on what has been widely acknowledged as an incredibly important Bill. I join other noble Lords in welcoming, on "the worst list since the lavender list", my noble friend Lord Vaizey and the right reverend Prelate the Bishop of Manchester. It struck me that one person's success is another's disappointment, because I wanted the Diamond synchrotron to go in the north-west. It obviously ended up near Oxford, but it was very good listening to my noble friend.

The right reverend Prelate recounted the dreadful night of the arena bomb in Manchester. I reflected on his feelings about how Manchester came together after that; it really did. He talked about the bee; I carry the bee around on my lanyard at all times. It certainly defined a moment in Manchester's history that will never be forgotten.

The noble and learned Lord, Lord Falconer of Thoroton, talked about the rise of the far right, and of course we cannot forget about that; it really is on the rise in this country. Just as we talk about Islamist terrorism, we cannot forget about that. I also say to my noble friend Lord Sheikh that I will respond to his letter as soon as I possibly can; I apologise to him. I also apologise to the noble Baroness, Lady Prashar, because at times, unless I am going deaf, I could not hear her very well. I shall look at *Hansard* and respond to her in due course if necessary.

Noble Lords including the noble Lords, Lord Ramsbotham and Lord Thomas of Gresford, the noble Baroness, Lady Prashar, the noble and learned Lord, Lord Thomas of Cwmgiedd, and my noble and learned friend Lord Garnier, talked about the new serious terrorism sentence with a 14-year minimum. Of course, the sentence will be for the courts to impose on the most serious and dangerous terrorist offenders who would otherwise receive a life sentence—those who have committed an offence involving a high likelihood of causing multiple deaths. It is right that we set a minimum that reflects the seriousness with which we take these offences. By having both a minimum custodial sentence of 14 years and a minimum licence period of seven years, and up to 25 years, we will keep the public safer by ensuring that dangerous terrorists serve longer in prison and are subject to longer periods of supervision and monitoring in the community.

The noble and learned Lord, Lord Judge, talked about the discount sentence. While the maximum reduction for a plea at the first reasonable opportunity is 33%, the position in sentencing law is different for offences that carry a mandatory minimum sentence. By applying a maximum reduction of 20% for an early guilty plea in the case of serious terrorism sentences, we are taking an approach consistent with the provision for other minimum sentences, such as those for firearms offences and third-strike burglary.

The noble Lord, Lord Paddick, questioned the evidence used to determine that longer sentences deter radicalisation. The rationale for this Bill is primarily about public protection, as noble Lords have said. Longer sentences and more onerous licenses are part of a package intended to ensure that offenders who commit serious terrorist acts are incapacitated for longer and better supervised on release. Longer sentences will provide both better protection for the public, by incapacitating terrorist offenders, and more time to support their disengagement and rehabilitation through the range of tailored interventions available while they are in prison.

The noble Lord, Lord Ramsbotham, asked me for an update on the announcement of additional funding for CT probation prison programmes, and the noble Lord, Lord Ponsonby, alluded to this too. We are doubling CT specialist staff and dedicating resources to provide enhanced training to identify and challenge extremist behaviour. The National Probation Service has already developed specialist teams for the management of terrorist offenders, but the additional investment we are making will take this further and recruitment is already under way. These specialist, trained probation officers will be able to deliver enhanced levels of offender management for those high-risk, complex cases.

The noble and learned Lord, Lord Falconer, and the noble Lord, Lord Ponsonby, asked for the estimate of additional probation expenditure. There are three effects on probation case loads that contribute to the additional costs expected. The first is the serious terrorists, and terrorism-related offenders, likely to receive an extended sentence. They would either face a 14-year minimum term, or be required to serve all of their sentence in custody, in steady state, and this may result in fewer than 50 additional probation case loads, at a cost of less than £100,000 annually. The second is expanding the sentence for offenders of particular concern regime to cover more offences. This would increase probation case loads by fewer than 50 offences at a cost of about £100,000 annually. The third, adding polygraph testing to certain offenders' license conditions, would affect fewer than 150 offenders at a cost of about £400,000 annually in steady state. This totals an estimate of additional £600,000 annual cost for probation in steady state.

[Baroness Williams of Trafford]

The noble Lords, Lord Paddick and Lord Ponsonby, have asked what HMG are doing to ensure that the Parole Board has the resources, training and so on to improve decision-making capability. The board has a cohort of specialist members, trained specifically to deal with terrorist and extremist cases, including retired high court judges, retired police officers and other experts in their field. We continue to work with the board, the police and security services to ensure that the parole system as a whole is fully equipped to deal effectively with these cases.

The noble Lords, Lord Ramsbotham, Lord Anderson and Lord Carlisle, the noble and learned Lord, Lord Garnier, and the noble Baroness, Lady Prashar, lamented the removal of the Parole Board referral for serious terrorists. Dangerous terrorist offenders should serve a sentence that truly reflects the seriousness of their crimes. Removing the prospect of early release for these offenders sends a clear message that this Government will treat this kind of offence seriously. By ensuring that they will spend longer in custody, our Prison Service will have more time to manage and reduce the risk that these offenders present to the public when they are released from prison. Prison governors and HMPPS public protection casework officials have extensive experience in setting licence conditions for terrorist offenders on behalf of the Secretary of State, and will continue to be informed by the recommendations of probation officers and the multi-agency public protection panels in place to ensure their safe and effective risk management on release into the community.

My noble friend Lord Vaizey, the noble Baroness, Lady Bennett, and the right reverend Prelate the Bishop of Manchester all talked about the vulnerability of children. Noble Lords will know that we have a separate youth justice system for children and the courts will always consider their specific needs when sentencing. However, we know that age is not a barrier to becoming involved in terrorist acts. That is why we have taken steps to ensure a degree of consistency between our approach to adult and youth offenders. The changes we are introducing to the EDS will remove the possibility of early release for the most dangerous offenders, allowing for the effective monitoring of risk factors over a longer period to limit the threat posed on release. The special sentence for offenders of particular concern will ensure that children who commit a relevant terrorist or terrorism-related offence cannot be released without a period of supervision in the community, maximising the time available to support their desistance from further offending.

My noble friend Lord Vaizey, the noble Baroness, Lady Hamwee, and, to a certain extent, the right reverend Prelate the Bishop of Manchester talked about the malign influence on children vulnerable to exploitation by adults—particularly, as my noble friend Lord Vaizey said, online. That is why 47% of the projects that the Government funded in 2018-19 worked in partnership with communities to reduce the risk of radicalisation. They were delivered in schools to increase young people's resilience to terrorists and extremist ideology in all its forms.

My noble friend Lord Vaizey talked about the online harms White Paper. Like him, I am looking forward to it becoming a Bill, and some of the problems that it will tackle, particularly online, for children and young people.

The noble and learned Lord, Lord Morris of Aberavon, talked about Northern Ireland and a possible separate sentencing approach. We think there should be a unified approach to the sentencing and release of terrorist offenders across the UK. We do not discriminate between types of terrorism. Any terrorist offender, regardless of their ideology or proclaimed motivation, and whether their offence was committed in England, Scotland or Northern Ireland, should be subject to the same sentencing and release regime.

There has been much discussion of the standard of proof. We are reducing the standard of proof from "on the balance of probabilities" to "reasonable grounds for suspecting" to support the use of TPIMs as necessary and proportionate to protect the public from terrorism-related activity. Only last year, Parliament took the step of updating the counterterrorism legislative framework through the Counter-Terrorism and Border Security Act, because pathways into terrorism have changed and, in some cases, accelerated. Much radicalisation now takes place online, as my noble friend Lord Vaizey said, and the operational pace for the Security Service and police is faster than ever seen before. Lowering the standard of proof will help to ensure that a TPIM can be considered as an option to manage the threat in a wider range of cases, where it is necessary to do so. For example, this change will assist in circumstances where an individual has been to Syria to fight for or assist a terrorist organisation but evidence of their activities there is hard to gather. Should they return, prosecution is the Government's strongest preference. However, if there are evidential difficulties and the burden of proof required by a criminal court—beyond reasonable doubt—cannot be satisfied but there is a reasonable suspicion that they have been involved in terrorism-related activity, lowering the standard of proof will ensure that a TPIM can be considered as a risk-management tool to protect the public.

Noble Lords will, rightly, want to debate where the balance between civil liberties and public protection best lies. However, the Government are clear: we must ensure that the Security Service and Counter Terrorism Policing can make full use of the tools available to them to manage the risk posed by those involved in terrorism.

The noble and learned Lord, Lord Falconer of Thoroton, asked about the removal of the two-year time limit. The Government have no desire to keep individuals on a TPIM any longer than is necessary and proportionate to protect the public. This change will ensure that, when subjects pose an enduring risk, we will be better placed to restrict and prevent their involvement in terrorism-related activity for as long as necessary. This provision mitigates against the possibility of TPIM subjects "riding out" the current maximum of two years with no change to their extremist mindset, and it removes the prospect of a cliff edge being created whereby a TPIM is removed but the subject of the TPIM represents an enduring risk.

In cases of well-connected extremists, it will also multiply the benefits of the TPIM by reducing individuals' capability of conducting terrorism-related activity,

dismantling their networks so that they are ineffective at inspiring and influencing others to commit acts of terrorism, and reducing the wider long-term threat from others who might have been influenced by the subject were it not for the TPIM measures. This change will also assist with longer-term risk management, providing more time to meaningfully pursue deradicalisation and space for subjects to adopt different lifestyles and move away from their previous extremist contacts.

As is the case now, recommendations as to who should be subject to a TPIM will be provided by operational partners in the first instance and will therefore be underpinned by suitable operational experience and expertise. Where we cannot prosecute, deport or otherwise manage an individual of terrorism concern, a TPIM will be considered, if necessary, as a means to protect the public. I am confident that the changes that the Bill will make will strengthen the toolkit available to our operational partners, while continuing to ensure that robust safeguards remain in place to protect the civil liberties of those subject to the measure.

The noble and learned Lord, Lord Falconer of Thoroton, asked me to cite examples, and the noble Lord, Lord Anderson, asserted that there has not been an occasion where security services which wanted to use TPIMs could not do so. That was cited in the House of Commons and it is true, but the Bill provides, as it should do, for future situations that could well arise, as my noble and learned friend Lord Garnier said. As I am sure noble Lords will know, the tests include not just the "reasonable suspicion" test but the following: that some or all activity is new terrorism-related activity; that the Home Secretary reasonably considers that a TPIM is necessary; and that the Home Secretary reasonably considers each TPIM measure to be necessary. In addition, the court must give the Home Secretary permission to impose a TPIM. Therefore, the decision is not based solely on that one test.

The noble Lord, Lord Hunt of Kings Heath, asked for the Government's view on the amendment proposed by PCC David Jamieson that would give PCCs and local mayors an oversight role in the operation of TPIMs. The Home Office already works very closely with the police before a TPIM is imposed and during its lifetime. The process ensures that TPIMs are imposed only following engagement with the relevant local police force and that community impact assessments are kept up to date. The Bill already contains a clause that will allow a TPIM subject's relocation measure to be varied where necessary on operational resource grounds. Therefore, David Jamieson's proposed amendment for an additional role for PCCs and local mayors in TPIM processes is, respectfully, not necessary.

The noble Lord, Lord Carlile, who of course has great experience in this area, cited radicalisation in prisons and gave the example of Usman Khan, but he will know that I will not go into that individual's case. My noble friends Lord Vaizey and Lord Risby, the noble and learned Lord, Lord Falconer of Thoroton, and the noble Lord, Lord Paddick—and, by turn, the noble Lord, Lord Carlile—questioned the success of rehabilitation programmes in prisons. HMPPS delivers a formal programme—the Healthy Identity Intervention—in custody and in the community. In addition, the prison strand of the Desistance and Disengagement Programme was rolled out to prisons in 2018. The DDP provides a range of intensive, tailored interventions and practical support designed to help in rehabilitation.

Measuring changes in behaviour is obviously and notoriously hard, especially in such a small cohort relative to the size of the prison and probation population in England and Wales. Our intervention programmes have a robust research and evaluation mechanism built into them. Evaluation and research will be at the heart of the new CT assessment and rehabilitation centre announced by the Government earlier this year.

In terms of scrutinising the effectiveness of disengagement, we have consistently evaluated the effectiveness of our work and have taken action where appropriate. The department regularly reviews its approach to make sure that it is appropriate and proportionate to the risk presented by terrorist prisoners and people on licence. This will be a core mission for the new CT assessment and rehabilitation centre, which will lead the evaluation, development and delivery of our intervention approaches. In addition, the independent reviewer of Prevent—on which more later—will consider the work of the desistance and disengagement programme.

The noble Lord, Lord Mann, talked about the CST and other voluntary organisations that have been very successful in identifying people who wish to do harm to our communities. I absolutely pay tribute to the CST. I have seen its work in action and have seen how it has worked with other organisations, such as Tell MAMA. It is also involved in countering hate crime towards the LGBT community. I hope that its work goes on for many more years to come.

On terrorist offenders leaving prison, as noble Lords have alluded to, throughout a sentence we oversee multiagency end-to-end supervision, which includes regular risk assessments. All terrorist offenders released on probation are closely managed by the National Probation Service, and the highest-risk offenders, including terrorist offenders, are managed through the multiagency public protection arrangements—MAPPA.

I am aware of time; I hope that noble Lords will bear with me for a couple more minutes. The noble Baroness, Lady Bennett, asked about women's de-radicalisation programmes. She will know that all convicted terrorist prisoners, including at the small number of women's prisons, can access the rehabilitative interventions. The noble and learned Lord, Lord Falconer, asked me about the Acheson recommendations. In our 2016 response to the Acheson report, the Government accepted eight out of the 11 principal recommendations. Following the Fishmongers' Hall terrorist attack, the MoJ Permanent Secretary commissioned an urgent review of progress against these recommendations. The review found that the department has delivered against all the recommendations that the Government accepted. This progress includes the establishment of separation centres to hold the most subversive extremist prisoners and to safeguard the vulnerable against their malicious ideology.

Over 29,000 prison staff, including all new recruits since January 2017, have received enhanced extremist awareness training. Arrangements are also in place to systematically remove extremist literature from prisons,

[Baroness Williams of Trafford]
and enhanced vetting arrangements for prison chaplains of all faiths are also now in place. Through the CT "step up" programme, the department will continue to build on this track record with increased resource and reform across these important areas.

The noble Lord, Lord Paddick, asked where we are up to with the MAPPA review. He will know that the terms of reference were published in January 2020 and that Jonathan Hall's report was published on 2 September. He found that it

"is a well-established process and did not conclude that wholesale change is necessary."

He made a number of recommendations; we will set out more about our response in due course.

The noble Lord, Lord Thomas of Gresford, challenged me about who Prevent is protecting. It is protecting the individual who needs to be safeguarded against being radicalised into terrorism. It is also protecting the people that might be harmed, both the individual and those around him or her. On the review, given both the noble Lord, Lord Carlile, having to stand down and how Covid has come to try us this year in respect of the work we can do, an incomplete or rushed review might well have been produced had we not removed the deadline through this Bill. The interviews are taking place later this month and will be followed by an announcement as soon as possible. The Government want the review to conclude by August 2021, but we do not want to constrain the reviewer's ability to complete a comprehensive assessment, given the uncertainties associated with the current circumstances. Confirmation of the timescales will be agreed with the new reviewer and set out in the terms of reference.

The noble and learned Lord, Lord Morris of Aberavon, asked whether Parliament will consider revised Prevent terms of reference. The answer is no. There were also a couple of questions on polygraph testing; if noble Lords are amenable, I will respond to those in a letter as I have gone well over my allocated time. With that, I beg to move.

Bill read a second time and committed to a Committee of the Whole House.

5.44 pm

Sitting suspended.

Arrangement of Business

Announcement

6.30 pm

The Deputy Speaker (Lord Palmer of Childs Hill) (LD): My Lords, the Hybrid Sitting of the House will now resume with questions on a Statement made in the House of Commons on Thursday 17 September.

Covid-19 Update

Statement

The following Statement was made in the House of Commons on Thursday 17 September.

"With permission, Mr Speaker, I would like to make a Statement on coronavirus and about our plans to put us in the strongest possible position for this winter. Like many other countries around the world, we are continuing to see a concerning rise in cases, with 3,991 new cases recorded yesterday, and this week the number of patients in mechanical ventilator beds has risen above 100 for the first time since July. The battle against coronavirus is not over, and while we strain every sinew to spring free of its clutches, with winter on the horizon we must prepare, bolster our defences and come together once again against this common foe.

One of our vital lines of defence has been taking targeted action at a local level. We have seen local action work well in some parts of the country, and now we must take further action. We have seen concerning rates of infection in parts of the north-east. Sunderland, for example, now has an incidence rate of 103 positive cases per 100,000 of population, and in South Tyneside, Gateshead and Newcastle the figures are all above 70 per 100,000. As a result, local authorities wrote to me earlier this week asking for tighter restrictions, and we have taken swift action to put them in place. From tomorrow, in Northumberland, North Tyneside, South Tyneside, Newcastle-upon-Tyne, Gateshead, Sunderland and County Durham, residents should not socialise with other people outside their own households or support bubble; hospitality for food and drink will be restricted to table service only; and late-night restrictions of operating hours will be introduced, so leisure and entertainment venues must close between 10 pm and 5 am.

I know, as the whole House does, that these decisions have a real impact on families, on businesses and on local communities. I can tell everyone affected that we do not take these decisions lightly. We agree with local councils that we must follow the data and act, and the data says that we must act now so that we can control this deadly virus and keep people safe. I know that the people of the north-east will come together to defeat this virus, as defeat it we must.

We are working to bolster our health and care system too. Winter is always a stretching time for health and for care, but this winter presents particular challenges. People will be spending more time indoors than they did in summer, where we know the virus is more likely to spread, and we know that we will need to deal with coronavirus along with the usual pressures that the season will bring. So today I want to set out our plans to support the NHS and social care this winter.

Turning first to the NHS, I can tell the House that we have allocated a further £2.7 billion to the NHS to support it during the winter months. This funding, in addition to the extra funding for personal protective equipment and testing, will help the NHS with the vital task of operating safely in a world in which Covid is still at large and the critical task of working through the backlog of elective work that was inevitably caused by the first peak.

Our emergency departments are on the front line of the fight for life in the NHS. Today, I am delighted to announce a series of measures to support our urgent and emergency care system this winter and beyond. I want to thank and pay tribute to Katherine Henderson, the president of the Royal College of Emergency Medicine, with whom I have worked closely to develop these proposals. I want to thank her, and, through her,

all those who work in emergency care for their service in the face of adversity. I saw this again this morning at the St Thomas' Hospital accident and emergency department, and I know that all of us support the work of those who work in our emergency facilities, right across the country. I very much hope that yours, Mr Speaker, will be opening soon in Chorley.

We will make our emergency departments bigger. Many are simply too small—that was true even before the pandemic, but it is even more acute now. So we are investing to expand capacity in urgent and emergency care, so that hospitals have the space to continue treating patients safely in the coming months. In August, we confirmed £300 million for emergency upgrades across 117 trusts, and I can today announce a further £150 million to expand 25 more emergency departments, including some of the most constrained in the country, such as those in Worcester and at the Royal Shrewsbury. This extra funding will put us in the strongest possible position for this winter, and boost the crucial work to accelerate non-Covid care.

It is not just about the space, but about the service, so we are working to get patients the right care in the right place, by expanding the role of NHS 111. During the peak of this pandemic, we saw millions of people using NHS 111, on the phone or online, to get the best possible advice on coronavirus, helping them to stay safe and, where possible, to stay out of hospital, where they could have unknowingly spread the virus. It is crucial that, ahead of winter, we use this window of opportunity to seek out what worked and build on it, so we provide a better service for patients and protect the NHS. Of course, no one will ever be turned away from our emergency departments in the most serious of cases; however, we have worked with the royal colleges, the NHS and others to develop a better, quicker and more clinically appropriate service for patients by using NHS 111 first.

This is how it works. We will invest £24 million to increase call-handling capacity and to make sure there are more clinicians on hand to provide expert advice and guidance, and we will build on our trials to make NHS 111 a gateway to the emergency care system, providing a first port of call for patients. In future, rather than having to queue in an emergency ward, we are testing that people should call NHS 111 first to book an appointment with whoever can give them the most appropriate care, whether it is a GP, a specialist consultant, a pharmacist, a nurse or community services. Of course, if they need to go to the emergency department, NHS 111 will be able to book them into an appropriate time slot. We want to see this approach lead to shorter waiting times and better availability of appointments for patients. We will consult on how its performance is best measured, and, with successful pilots, we will roll out NHS 111 First to all trusts from December.

Finally, I want briefly to update the House on our work to protect care homes. One of the worst things that we know about this virus is that it reserves its greatest impact for those who are physically weakest, especially the elderly, so we must do everything in our power to protect residents in social care. In May, we introduced the adult social care infection control fund, which has helped adult social care providers reduce the rate of transmission. This was used to fund important measures such as improving infection prevention and paying staff to self-isolate. I can now inform the House that we will extend this fund for six months and provide over £540 million of extra funding for providers. That brings our total funding for infection control measures in social care to over £1 billion. We will also shortly be bringing forward our adult social care winter plan, because we will do whatever is humanly possible to protect our care homes from this virus so that they are a place of sanctuary this winter.

We will soon be facing winter in this fight and, whether on our NHS emergency care wards or in our care homes, we will strain every sinew to give them what they need, so they are well equipped for this pandemic and, indeed, for the years ahead. I commend this Statement to the House."

6.31 pm

Baroness Thornton (Lab): Like everyone here, I watched the briefing by the Chief Scientific Officer and the Chief Medical Officer today, and very sobering it was too. It was followed by a very informed discussion on the BBC. It feels that we are playing catch-up again, although I realise that that is almost inevitable. Today we have had another Statement since this one and I gather that the Prime Minister will make a further Statement tomorrow.

Last week, when we discussed the then Statement which was already three days old, I said that I thought that we had come to a critical moment when some very serious decisions would need to be taken, and clearly that was correct. The words "tipping point" and "perilous moment" were used in the Commons today during the debate on the Statement. As we have said all along, clarity of messaging is totally vital. The country has become increasingly confused about what people should do to protect themselves and those around them, so perhaps this break point is really important.

A few weeks ago, the Prime Minister was setting out his stall to review the outstanding restrictions and allow a more significant return to normality, possibly in time for Christmas. Now the Prime Minister has admitted that we face a further six months of very difficult lockdown restrictions while the CSO, Sir Patrick Vallance, said that the UK faces 50,000 Covid cases a day by mid-October if the current infection rate is not halted. My first question for the Minister is: are we now at level 4? I ask because the Joint Biosecurity Centre has recommended that the Covid-19 alert level for the UK should be increased to level 4, meaning that transmission of the virus is high or rising exponentially. It has been at level 3, meaning that the Covid-19 epidemic is in general circulation, for several months, but the Chief Medical Officers of England, Wales, Scotland and Northern Ireland said in a joint statement this evening:

> "After a period of lower Covid cases and deaths, the numbers of cases are now rising rapidly and probably exponentially in significant parts of all four nations."

Given that, are we going to move to level 4?

Can the Minister confirm that the Government intend to bring forward further restrictions in London? What are the next steps nationally? This morning, Chris Whitty, the CMO, said that people should

[Baroness Thornton]

"break unnecessary links between households to stop coronavirus spreading out of control."

Has the advice about return to work changed? Can the Minister confirm whether the reported two-week circuit-breaker lockdown is indeed going to happen?

It is deeply concerning that the Statement last Thursday contained scant reference to testing. As my right honourable friend the shadow health Secretary said, under this Government test and trace is actually trace a test. When will that be resolved? Giving evidence to the Science and Technology Committee on Thursday, the noble Baroness, Lady Harding, told MPs:

"I do not think anybody expected to see the really sizeable increase in demand that we have seen over the course of the last few weeks."

This is simply not true. Can the Minister confirm that SAGE warned the Government that the UK faced an inevitable increase in community transmission and cases after the summer and needed a fully functional and trusted test and trace system put in place?

I feel that I need to talk about the "moonshot", because it is an emerging story on the *i* that the moonshot test for Covid-19 that will allow people to resume normal life will not be available on the NHS—as the Government's testing tsar, the noble Baroness, Lady Harding, suggested. She said that individuals and companies would have to pay to access the proposed test and that it would not be part of the normal NHS test and tracing scheme that she heads, which will continue to concentrate on swab tests. So the question I need to ask the Minister is: are we now looking at an A and a B test and trace system or an A and B test system where people who can afford to pay for a test can get one immediately and those who cannot—the majority of us—will not?

Given these issues, tests now seem to be rationed, with health and social care prioritised. Could the Minister reflect on reports that care homes worst hit in the first wave could be tested for coronavirus less often, as the Government believe there will be higher levels of immunity and that they are less likely to pass on the virus? This is deeply worrying, given the high percentage of staff turnover and the vulnerability of residents.

Can the Minister confirm reports that evidence shows that 20% of people who have been told to self-isolate are still leaving their homes, and will that information be published? That is presumably what is leading to the much more aggressive fines. The Government say that the £10,000 maximum fine will act as a deterrent to testing positive and not self-isolating. Does the Minister share my concern that this actually may deter people with symptoms from getting a test at all? For many people, ignorance may also be the only legitimate option, as they are unable to get a test and self-isolation is financially non-viable.

The Minister will be aware that the Joint Committee on Human Rights said it was unacceptable that many thousands of people were receiving fixed-penalty notices despite evidence that the police do not fully understand their powers. They highlight enforcement as having a disproportionate impact on young men from black, Asian and minority ethnic backgrounds. Currently there is no way for people to challenge the fixed-penalty notices easily, so does the Minister share my concern that this will invariably lead to injustice, as members of the public who have been unfairly treated with a fixed-penalty notice have no means of redress?

It ought to be straightforward for a member of the public to find out what the current law is, nationally and in their local area, without having to trawl—as the rest of us are doing—through countless confusingly named regulations. Will the Government publish a website where people can enter their postcode and be told in plain English what restrictions currently apply where they live?

Baroness Barker (LD): My Lords, I thank the Minister for dealing with this Statement, which comes hot on the news that we are at level 4 as regards the pandemic. Therefore, I want to touch on two or three points in this Statement. The first is the Government's intention to invest £24 million in increasing call-handling capacity through NHS 111, to make it into a gateway to emergency care, providing the first port of call for patients. I must say to the Minister that it is a bit late to be doing that, and most of us should be somewhat alarmed at the news in the Statement that the Government intend to conduct pilots and will roll out NHS 111 First to all trusts from December. I understand the need to run pilots, but does he not think that time is against us?

On 17 September, six council leaders, cross-party, from across Yorkshire and Humber, wrote to the Minister. It is worth paying attention to what they said in their letter. They said: "It would be worth exploring the protocols and policies that might increase demand for what might be considered lower-value testing in a time of capacity constraint. This would include working with NHS 111 and reviewing their protocols. It seems that any childhood illness may result in a Covid test—that is what GPs are constantly telling us—while the Royal College of Paediatrics and Child Health have produced helpful guidance around that." I ask the Minister if his department has seen that guidance and whether it will pay any attention to it.

Secondly, back to care homes and the ring of steel that never was. It is very welcome that there is going to be further investment in PPE and coverage for staff who have to take time off. However, there is a real danger in this, and there always has been, because social care is much more than care homes. Only 15% of people aged 85 or over are in a care home—most people who receive care are not. It is not uncommon for domiciliary care workers to visit 10 to 15 different homes in a shift. This Statement is silent on this matter which, given that the advisers are telling us they now know more about the transmission rate, is somewhat surprising. I wonder whether the Minister could talk about that.

The big issue in the last few days is the increasing confusion among members of the public as to who should be tested. Even in areas that are on the watchlist, people do not know whether they should be tested only if they are symptomatic or if they are asymptomatic. Some authorities have been given the power to do asymptomatic testing. Going back to that letter of 17 September, I note that the local authority says that it would be happy to have discussions locally but accepts the need for a co-ordinated approach with the

Government. There needs to be a public discussion that provides urgently needed clarification from the department on how long these capacity issues are going to be around and what contingencies are going to be in place to manage them, particularly in high-risk areas.

This is not endless carping but a genuine concern for public health, and I therefore look forward to some detailed answers from the Minister.

Lord Bethell (Con): My Lords, the noble Baroness, Lady Thornton, hit exactly the right note: we are at a sober moment and it is clear from the medical authorities that we are at some sort of tipping point. It is not too grand to say that the British nation faces something of a choice about how we approach the months ahead.

I confirm, as the noble Baroness, Lady Barker, has already done, that we are at level 4. The CMO has confirmed that he has taken the advice of the Joint Biosecurity Centre, and this is an indication of the seriousness of the situation. I acknowledge that there is widespread discussion of further restrictions and, as the noble Baroness, Lady Thornton, alluded to, that the Mayor of London, Sadiq Khan, has grave concerns for London. The CMO and the Chief Scientific Adviser have made their grave concerns crystal clear in their briefing this morning, and the graph showing the potential exponential growth in the case rate is extremely daunting.

I acknowledge that there are people who are concerned that we should put further restrictions in place, but I cannot confirm any of those arrangements. There will be a COBRA meeting tomorrow morning, which will be followed by a Cabinet meeting. The Prime Minister will make a Statement in the House of Commons tomorrow afternoon; how it will be repeated here is being discussed in the usual channels.

The expectations are very gruelling. The noble Baroness, Lady Thornton, queried why we did not see this coming, saying that, surely, SAGE and others had predicted this. The situation a month ago was quite different: when you looked at the dashboard, it was not clear that this sudden spike would turn up. However, the example of France—in cities like Marseilles—the hospitals in Spain and countries such as Israel has been extremely challenging and we are therefore moving quickly.

We completely acknowledge the concerns of parents and teachers in schools and the demands that they have put on the testing regime; we are absolutely determined to do whatever we can to keep schools open. We acknowledge the concerns of those with loved ones in social care, and we continue to pledge a very large amount—half of our testing capacity—to put protection in place for those in social care homes, who work with those in social care and who are in domestic care.

The noble Baroness, Lady Thornton, asked about Moonshot, and she is entirely right. The Moonshot project is adjacent to and parallel to our existing testing capacity, which uses the Rolls-Royce PCR test, which is extremely accurate in terms both of sensitivity and prevalence. Those tests take time to turn around, are costly and are best placed one after another in machines in an industrial process.

We are therefore looking at a much more flexible type of testing capacity, which may not need to be quite as scientific in its approach and may have different use cases. Principally, it would enable people to do the things they seek to do: to be in places where social distancing is more challenging, whether that is a place or work or leisure, or a family context. In answer to the noble Baroness, Lady Thornton, we absolutely apply the inclusionary principle, but there may well be a role for owners of venues such as football clubs and theatres to take advantage of these interesting, dynamic and innovative technologies in order to bring back some of the economic, social and cultural parts of the country that we all love, and that many depend on.

The noble Baroness, Lady Thornton, asked about self-isolation and quarantine. She is entirely right: these are critical components of our first-line defence against Covid. The only reason for having a test and trace programme is that people then isolate. If they do not isolate, there is no point in having that programme. We are absolutely focused on doing whatever we can to ensure that those who have been asked to isolate, because they have been in a risky situation or because they have had a positive test, do indeed do that. The fines we brought in at the weekend, or are set to bring in, are evidence of our determination to double up on the isolation principle. We have also brought in economic support for those who are isolating in certain target areas. As I have said at the Dispatch Box previously, those systems remain under review. If there is more that we can do to support those who are isolating, we will consider doing it.

The same is true of quarantine. The concerns of those in this House who would like to see our airports reopened and airlines and international travel restarted have been heard loud and clear. However, quarantining is essential to breaking the chain of transmission and to protecting this country. Until we have quarantine protocols that we can rely on, we have to live with what we have got.

The noble Baroness, Lady Thornton, also asked whether there was a better way for those in a particular place to understand what restrictions they are living under. I entirely agree. The pace at which some local lockdowns have been enforced or changed is extremely difficult to keep up with, even if you live in one area. That is why the app, which will be released on Thursday, will have a postcode checker. You can put in any post-code in the country and it will give you an indication of the lockdown principles and alert level in that area. That is a helpful device which will put many people's minds at rest.

The noble Baroness, Lady Barker, asked about call handling and 111. I remember that, not long ago, the very existence of 111 was questioned by many. There were those who thought that closing it down might have been a good idea. During the Covid epidemic, 111 has been a phenomenal success. We have put in more resources, more call handlers, more training and more technology in order to make it more successful. It has proven its value in a massive way.

What we are doing with the trials alluded to by the noble Baroness, Lady Barker, is introducing a pilot so that those going to the emergency services in a hospital

[LORD BETHELL]
can phone 111 to check which services they should attend and, on occasion, book their slot in the emergency services. This is a system that patients have been asking for for a long time. It will help us massively with our load management as well as our Covid hygiene principles in emergency services. The pilots are starting in half a dozen locations, including Cornwall and Warrington, and we have put £24 million and a marketing campaign behind them. My expectation is that this service will prove extremely popular and will change the way in which people engage with hospitals. It will mean that the concerns and treatment of patients will be handled much more efficiently, and patients will go to the place that can best look after their treatment.

The noble Baroness asked about the protection that we are providing for care homes. The winter plan for social care, published last month, is an extremely detailed document that addresses many of the concerns that I have heard here in the Chamber. It is a thoughtful, well-financed and highly detailed plan for how we are going to protect those who are most vulnerable during the winter months. It is backed by an enormous financial commitment, a large number of tests and new guidelines to handle, for instance—as the noble Baroness rightly pointed out—the very difficult challenge of itinerant workers who may work for several different patients all at once; we are providing the financial resources and the new protocols in order to ensure that they do not become vectors of infection.

The noble Baroness, Lady Barker, asked about testing and who should be tested, and addressed in particular the question of asymptomatic testing and public discussion. We are massively engaged in a huge national conversation at the moment with local authorities, civic groups, employers, scientists and every single stakeholder that you could possibly imagine in the testing arena. Every day at the Department of Health we have round tables, webinars and all manner of engagement to understand how best we can serve schools, families, the economy and all the aspects of British life that depend on getting testing right.

One aspect of testing that is being generated by the exciting innovations that I mentioned in my answer to the noble Baroness, Lady Thornton, is the testing of asymptomatic people. That is not possible at the current levels of testing, even at 250,000 per day. We have to be extremely careful, as everyone here knows, to use every test that we have to its most effective use. When there are very large numbers of tests that can be cheaply and quickly delivered, and which are user-friendly by using things such as saliva or even breath tests, that could inaugurate a revolution in the way that we use testing and it may provide a system where those who are seeking to go outside, to go into areas where social distancing is challenging, can check whether they have the virus that morning and, at least for a day or two, have evidence that they will not be vectors of infection. That is potentially a transformative technology and it is the focus of our Moonshot ambitions. The progress that we are making is extremely encouraging and I look forward to updating the House on future days.

The Deputy Speaker (Lord Palmer of Childs Hill) (LD): My Lords, we now come to the 30 minutes allocated for Back-Bench questions. I ask that questions and answers be brief so that I can call the maximum number of speakers.

7.53 pm

Lord Patel (CB) [V]: My Lords, I want to pick up on what the noble Baroness, Lady Thornton, said about the clarity of messages. Enough has been said about test, track and isolate, and I will not go there, but I want to pick up on the comment made by the Chief Medical Officer in the presentation this morning about how people's changing behaviour may help reduce or suppress the transmission of the virus significantly. The Government's slogan "Hands, Face, Space" is apt. The Government were quite clear at the beginning of the pandemic about handwashing but less clear about face masks or face coverings and space. In future, as we are facing a serious problem, what message does the Minister wish to give to citizens when it comes to the use of face masks and space?

Lord Bethell (Con): Our message remains clear and the same as when we started this epidemic. There is no other better alternative than the three principles articulated by the noble Lord, Lord Patel: clean hands, clean face, and social distancing. That mixture of hygiene and social distancing is the only thing that can beat this virus; that is our first line of defence. Test, trace, and isolate is our second line of defence. Face masks—in situations where social distancing is a challenge—can provide some secondary back-up, but they are not our primary form of defence.

Lord Ribeiro (Con) [V]: My Lords, the statement by the CMO and CSO today fired a shot across the bows of Government and demands action now to prevent the second wave getting out of hand. The message is sobering. As noted by my noble friend, we could see 50,000 cases a day by mid-October if no action is taken, leading to 200 deaths per day by mid-November. They refer to transmissions at home and in social settings. This should direct our attention to pubs and restaurants and whether they should remain open as potential vectors of infection.

We have learned many lessons from the first wave, particularly that there may have been a reluctance on the part of hospitals to refer patients to the Nightingale hospitals, lest this be seen as a sign of failure. This is a war on a pernicious virus, and we need leadership and central direction to ensure that we use these facilities more effectively. I welcome the £450 million earmarked to upgrade and expand A&E units, but we need a plan for the following points. One, triage patients to Nightingale hospitals once capacity in NHS hospitals exceeds 60%. Two, A&E holding bays for suspected Covid patients, who are transferred to Nightingale hospitals if they test positive. Three, a point of care test, be it the new flexible test the Minister mentioned earlier, to ensure we get quick results. The purpose of the Nightingale hospitals must be to enable the wider NHS to fulfil its obligations to maintain elective and emergency services. Can my noble friend the Minister confirm whether this is the Government's strategy?

Lord Bethell (Con): It is a war, that is why we are focused on how we manage extra resources such as the Nightingales. We have put in new systems and artificial intelligence for algorithms to help us with our triage. We have invested £450 million in A&Es, which will include building new holding bays. As my noble friend rightly points out, these need development. We have invested in 5,000 DnaNudges and other point-of-care devices to give front-line care workers the diagnostic help they need.

Lord Young of Norwood Green (Lab) [V]: My Lords, I welcome the statement from the Minister, but to be candid, when I hear talk about Moonshot, I will believe it when I see it. What members of the public want is the ability to access Covid tests in places such as Bagshot, or Aldershot, or any other testing centre. The reports we get are that they cannot get appointments. Schools are closing because they cannot get test results, classes are being sent back; therefore, it is not just the number of tests, it is how long they are taking to turn around. To say we are surprised by the surge, when we were opening schools, does surprise me.

I have two other points on which I would welcome a response from the Minister. One, raised by noble Baroness, Lady Barker, is about domiciliary care. It is essential that PPE is available. It must be the right quality; we have had examples where large batches have been ordered from Turkey and China and they have been no good. We want quality PPE that is available.

Baroness Penn (Con): Could the noble Lord address his question to the Minister now?

Lord Young of Norwood Green (Lab) [V]: I am addressing all these questions to the Minister. My last point is this: will there be testing capacity in general practice surgery?

Lord Bethell (Con): My Lords, we are introducing a new scheme for bringing testing capacity straight to the desks of general practice, and the results from that initiative are promising.

Baroness Walmsley (LD) [V]: My Lords, I welcome the further £2.7 billion for the NHS to prepare for winter and the further £150 million to expand emergency departments in England. However, as a resident of Wales, where health is devolved, I ask the Minister whether the Government have provided a proportionate sum to the devolved Administrations, to ensure that their residents can benefit from these improvements too? Furthermore, will the changes to NHS 111 be available in Wales, Scotland and Northern Ireland?

Lord Bethell (Con): My Lords, the noble Baroness raises an important point about the rollout in the devolved Administrations. I do not have the details in my brief but I would be glad to write to her with them.

Lord Kakkar (CB): My Lords, I draw the House's attention to my registered interests. The Minister has alluded to the strategy, announced by Her Majesty's Government earlier this month, of moving to mass population testing for citizens, regardless of symptoms. This is clearly predicated on having capacity for high-frequency testing, rapid reporting of results and a minimum threshold of accuracy for the test used. What assessment have the Government made of the threshold of accuracy in relation to sensitivity and specificity required to ensure that the mass testing strategy is successful—which is essential if we are to not only implement public health measures but save our economy?

Lord Bethell (Con): My Lords, the user cases for different tests are being drafted and interrogated as we speak. The user case, for example, of an anaesthetist going into a delicate operation would be very different from the asymptomatic testing of a large school, or of people thinking about going to the pub in the evening. Matching the tests with the user cases is an important and necessary step. Once that is agreed with all relevant scientific committees, we will publish those user cases so that manufacturers can make the tests according to the required dimensions and specifications.

Lord Randall of Uxbridge (Con) [V]: My Lords, I am sure my noble friend will agree that at this serious and critical moment it is imperative that all the rules are observed. It is, however, important that the rules are seen to be practical and workable. I urge my noble friend, therefore, to reconsider in the near future the current decision to include children under 12 in the rule of six. Will the Minister also confirm that no woman will have to give birth alone?

Lord Bethell (Con): My Lords, the rule of six treatment of children under 12 is extremely heartbreaking. I have three children under 12 and I find it very awkward. The CMO's view, however, is crystal clear: children, whether under 12 or not, can be vectors of infection, and if a whole generation of children is infected with the disease it will roll through the generations to those who are older or vulnerable, as sure as night follows day. For that reason, we are holding the rule as it is.

Baroness Donaghy (Lab) [V]: I thank the Minister for his Statement and for confirming that the alert level is now at 4. If I heard him correctly, he mentioned that COBRA would meet tomorrow. On Friday I asked why COBRA had not met for four months, and he indicated that it had given way to COVID-O and Covid Gold. I looked these up on the government website; deep into page 15 it announced the names of the operational and strategic committees and their membership. I am anxious that there should be clarity and co-ordination of decision-making, proper consideration of spending public money and accountability in contracting. Can the noble Lord give me an assurance that there will now be better co-ordination at national level and better reporting of decision-making?

Lord Bethell (Con): I pay tribute to colleagues and officials at Downing Street and the Cabinet Office who have organised an extremely detailed, flexible and fast-moving decision-making arrangement through the COVID-O and Covid Gold process. That has proven, as has often been discussed in this Chamber, incredibly

[LORD BETHELL]
quick at responding to events. In terms of spending, I pay tribute to my noble friend Lord Agnew in the Cabinet Office, who is leading the fraud and financial scrutiny efforts to ensure that the money spent on taxpayers' behalf goes to the right places.

Lord Taylor of Goss Moor (LD) [V]: Does the Minister agree that we cannot afford to destroy the economy again and that it would be immoral to destroy the educational future of our children? That implies that people must curtail their social opportunities. It is also incumbent on Government to recognise that education and the economy working will lead to increased cases. Do the Government not therefore need to step up and reintroduce the targeted work on those most vulnerable to this disease, as we know who they are?

Lord Bethell (Con): My Lords, I entirely agree with the noble Lord's sentiments. The economy and education are critical. I reiterate the Government's commitment to ensuring that the economy survives in the best possible way and that our children get the education they need. However, it is not quite as binary as he describes. If the public abide by the behaviours recommended in the guidelines, we can enjoy a far greater range of activities than would be the case under a major lockdown. Either way, we are committed to protecting the most vulnerable. I point to the substantial financial investment in protecting those who are shielded and in social care.

Baroness Finlay of Llandaff (CB) [V]: My Lords, I declare my role in the Distance Aware programme in Wales, intended to help people coming out of shielding. We must focus on breaking the chain of transmission. Oxford University reports that the Isle of Wight Test and Trace pilot with the NHSX app broke transmission rates from among the worst in the UK to zero in three weeks. That app was withdrawn. Now the Google/Apple app trial on the island and in Newham is failing to stop R rising after five weeks. As the NHSX app is the only intervention shown to break the chain of transmission, will the Government now urgently roll it out nationwide?

Lord Bethell (Con): My Lords, the noble Baroness is correct inasmuch as the statistics published for the original app would suggest. However, new statistics about the new app will be published after its launch on Thursday. I reassure her that the circumstances between then and now have changed considerably. The impact of an app that is widely downloaded and implemented across the country can be profound. We are extremely optimistic about its impact.

Lord Rogan (UUP) [V]: My Lords, it was announced in Stormont this afternoon that Covid-19 restrictions are to be extended across all Northern Ireland from 6 pm tomorrow. However, given that the Prime Minister is to make his own set of announcements tomorrow, can the Minister offer some clarity on whether the changes in Northern Ireland could be overwritten by Mr Johnson? Can he also offer some insight into what work is going on to try to achieve more consistency of messaging across all four nations of the United Kingdom? It is obvious that the differences are causing profound confusion among the public and putting more lives at risk.

Lord Bethell (Con): My Lords, I note the move by Northern Ireland, which has taken a sincere and thoughtful approach. It is true that there have been some small differences between the different countries, but the vast majority of guidelines, restrictions and lockdown arrangements are shared by all the countries of the United Kingdom. I commend the huge amount of collaboration between all the DAs in working together to fight this horrible disease.

Lord Rooker (Lab) [V]: Has the Minister ever read his own department's weekly statistics paper for test and trace? On page 8 of that for the latest week, from 3 to 9 September, there is a chart and figures for people tested from May. There is not a single day when the number of people tested exceeded 100,000, even when tests under pillar 1 are added to tests under pillar 2. The average for the latest week is 82,000 people tested. Could he ask the Secretary of State to stop playing fast and loose with the figures, especially in interviews where the interviewer is not briefed properly, as on "The Andrew Marr Show" on Sunday? He himself used the figure a few minutes ago of over 200,000, implying that was the number of people—it is not. There have never been 100,000 people tested on any single day.

Lord Bethell (Con): My Lords, I would be glad to talk about the weekly statistics with the noble Lord in detail, if he would like. The number of tests per day is frequently over 200,000. The number of people includes a huge amount of duplication, because some people have had more than one test. Those people are often in social care or hospitals. If a person is tested in March and goes on to be tested 20 more times, they are counted once in March and not again. That is why the number he is looking at is quite different from the daily "tested" figure.

Lord Willis of Knaresborough (Lab) [V]: My Lords, another statistic we seem to forget is that some 20,000 Covid-related deaths have occurred in care homes to date. Yet, as we face another massive surge, there is no guarantee that we have learned any lessons from them. I welcome the resources spent on PPE, and I hope the Minister will guarantee that no patients will be dumped into care homes as they were earlier in the year. Unless we can protect the 1.2 million social care workers, 465,000 of whom work in care homes, the same will happen again. Last Friday, as reported by the *York Evening Press*, a care home in York waited over seven days for 100 test results to be returned—seven days when people got more ill and faced the prospect of an early death. Unless the Minister can guarantee at the meeting tomorrow that all tests in care homes will be offered on a weekly basis and returned within 24 hours, we will be putting our whole care home sector in peril.

Lord Bethell (Con): My Lords, the noble Lord, Lord Willis, does the care home sector, the NHS and those who work in them a massive disservice. There are hundreds of ways in which we have learned to deal

with this disease better, such as how we use therapeutic drugs; how we store and use PPE; how we manage and protect our workforce; how we handle mental health and the entertainment of those who live in care; how we use modern technology, including television and diagnostic devices; how we transfer patients in and out of hospitals; and how we use testing. I could continue, but I think I have made my point.

Lord Craig of Radley (CB) [V]: My Lords, Lord Sumption and others say older people should be allowed to take their chances with the virus if they prefer that to cutting off contact with family and friends. Does the Minister agree that senior citizens—I am 91—should be allowed to take responsibility for their own safeguarding, rather than face their remaining years in perpetual lockdowns and feeling guilty that their protection is at the expense of younger, working people and the economy?

Lord Bethell (Con): My Lords, I do not like telling anyone what to do. I do not like telling anyone that they should lock themselves up or stay away from the people they love—of course I do not—but in this epidemic we have learned that my health affects your health and your health affects my health. If you wander around catching the disease and giving it to other people, the impact on the whole of society is enormous. We all have to get used to this fundamental public health truism.

Baroness Wheatcroft (Non-Afl) [V]: My Lords, we know that Covid attacks the most vulnerable in society so, while I sympathise with the noble and gallant Lord, Lord Craig, I wonder whether the Minister sees merit in sending a clear message to those over 70 or with underlying conditions that they should consider isolating. This message would not be simply to protect them but to protect the NHS and allow the country to keep its schools and economy working.

Lord Bethell (Con): My Lords, a clear message could not have been more emphatically sent to those over 70 about the dangers of this disease. The problem we have today is not one of irresponsible over-70s; it is a problem of prevalence among the young. We need to think thoroughly about how we address the issue of young people, who rarely get symptoms or even know they have the disease, transporting that disease in a dangerous way to those who are more vulnerable.

Baroness Massey of Darwen (Lab) [V]: My Lords, the Minister has emphasised that targeted action in local areas is essential and that the Government are listening to local authorities. Will he confirm that local authorities will now truly have a powerful presence in fighting this pandemic and will be given adequate funding appropriate to their needs? Will he also assure us that we have moved away from empty boasts about UK initiatives being world beating and are now approaching this pandemic with greater insight and maturity? For example, what can we learn from Europe and other countries about the pandemic and how they plan, and how will we take note of that? Tracing and testing would be a good example.

Lord Bethell (Con): The noble Baroness is right to point to the lessons we can learn from other countries, and we spend a huge amount of time on the telephone in round tables with those in other countries who have much to teach us. We have spoken at length and continue to speak to those in Asia, including in Taiwan, Japan and South Korea, which have pioneered different ways of doing things, and we note the work of the civic authorities in Antwerp, which recently brought in local measures that massively reduced a runaway situation. They are an inspiration to us all.

Lord Addington (LD): My Lords, will the Minister give us some idea of the advice the Government are giving to institutions such as amateur sports clubs about how they are supposed to function in the changing environment? There has been some activity, and they will presumably have to pull down in certain places. Also, is there any government strategy for making sure that these clubs and groups can still survive if we have to go through another six months of this isolation?

Lord Bethell (Con): My Lords, I pay tribute to amateur sports clubs, which have jumped through enormous hoops to keep operating and to provide important leisure and fitness to the country during an incredibly difficult period. They have been extremely disciplined and entrepreneurial in the way they have applied hygienic protocols. On Sunday I went to three amateur sports clubs, taking one of my children to each. The warning the noble Lord, Lord Addington, gives about the financial future of these clubs is extremely well made. The Department for Digital, Culture, Media and Sport is looking at ways in which it can provide both the financial and infrastructure support for those clubs and will work hard to ensure that they survive.

Viscount Waverley (CB) [V]: My Lords, the Minister has touched on critical countrywide issues but, as regards those who have crossed the channel, does automatic Covid testing take place for migrants detained by the UK border agency on the Kent coast, for example?

Lord Bethell (Con): My Lords, all those resident in local authority hostels or accommodation will be tested regularly to prevent the transmission of this disease.

Lord Truscott (Ind Lab): My Lords, will the Minister commit Her Majesty's Government not only to an independent inquiry into their handling of Covid-19 but to a public inquiry? The Government need to look at the massive human cost of the pandemic as well as the financial one. Have the many billions of pounds spent on the pandemic been spent wisely?

Lord Bethell (Con): My Lords, I am afraid that any decision about an inquiry is way beyond my pay scale, but the noble Lord is entirely right: there will clearly be massive lessons that we need to learn about the ways in which we do government, and health, and manage our public health. Those lessons should certainly include the economy since the impact of this disease on it has been profound. We will be living with those

[LORD BETHELL]
consequences for some time to come. We need to learn how to protect the economic future of our children when dealing with these kinds of national epidemics.

Baroness Andrews (Lab) [V]: My Lords, one of the most public failures of communication has been the refusal of the Prime Minister to talk to his counterparts in the devolved nations. Yesterday, they had the privilege of a conversation with Mr Gove. The Prime Minister has still not spoken to them since May. I find that extraordinary. I have never seen Mark Drakeford so angry. Does the Minister agree that unilateral decisions taken in England can have a perverse impact, particularly on Wales, as many people live in Wales but work in England? Will the Prime Minister now engage? Will those devolved Ministers be at the COBRA meeting tomorrow, for example? When will the Prime Minister set up the regular, reliable meetings with his counterparts for which they have been asking for months?

Lord Bethell (Con): My Lords, the noble Baroness makes a powerful point but it is at odds with my own experience. I deal with my counterparts in the devolved authorities on a very regular basis. We have extremely strong bilateral relations and I pay tribute to the collaborative spirit in which they go into those conversations. All I can say is that I am extremely grateful to those in the devolved authorities who have worked so closely with us in a four-nations response to this epidemic.

Baroness Uddin (Non-Afl) [V]: My Lords, 50,000 is a frightening enough number but SAGE has made public pronouncements that, as we approach the winter, up to 500,000 people or more may display Covid and flu symptoms. With schools and universities returned, there is nationwide concern about this increasing exponentially, as the Minister has said. We have heard that some schools and universities are already facing partial closure. What specific advice has been issued to NHS front-line staff, including GPs, so that they are vigilant and adequately prepared to respond to the needs of teachers and families—particularly those within ethnic minority communities—who are deemed at higher risk of being affected by this dangerous disease? Regarding the Help Us to Help You campaign, is the Minister working closely with ethnic minority communities in particular? They have obviously been disproportionately affected, and we want to avoid that continuing, at all costs.

Lord Bethell (Con): My Lords, the noble Baroness is quite right to raise the question of the Help Us to Help You campaign and the work that is being focused on hard-to-reach communities, whether BAME communities or other communities where we struggle to get some of our health messages through. I reassure her that there is an enormous focus on getting these important messages through to those who are particularly vulnerable to the effects of Covid, and who we have to work harder to reach.

House adjourned at 7.24 pm.

Grand Committee

Monday 21 September 2020

The Grand Committee met in a hybrid proceeding.

Arrangement of Business

Announcement

2.30 pm

The Deputy Chairman of Committees (Lord Lexden) (Con): My Lords, the hybrid Grand Committee will now begin. Some Members are here in person, respecting social distancing, others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down and to wipe down their desk, chair and other surfaces that they touch before and after use. If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. The time limit for the following debate is three hours.

Brexit: Road, Rail and Maritime Transport (EUC Report)

Motion to Take Note

2.31 pm

Moved by ***Lord Whitty***

That this House takes note of the Report from the European Union Committee *Brexit: road, rail and maritime transport* (39th Report, Session 2017–19, HL Paper 355).

Lord Whitty (Lab) [V]: My Lords, the report was published in May 2019 based on an inquiry by the EU Internal Market Sub-Committee. The majority of our evidence was taken between July and November 2018 in the run-up to the publication of the outline political declaration and Mrs May's draft withdrawal agreement. It all now sounds like ancient history so this report might be seen as a bit out of date and hardly worth bothering your Lordships with at this stage. The problem is that the questions asked by the committee in the report, which reflected the concerns of the transport sectors, still have not been answered. Even in recent days, it has been made clear by the road haulage sector, in particular, that it still does not consider that it has received satisfactory answers as to the Government's intention.

Perhaps I should explain that this was my last report as chair of the sub-committee; the noble Baroness, Lady Donaghy, took over from me in grand style. We will hear from her shortly. Also, the EU Internal Market Sub-Committee ceased to exist after the restructure earlier this year. The noble Baroness, Lady Donaghy, now chairs the EU Services Sub-Committee, but much of the transport brief is in the hands of the EU Goods Sub-Committee, chaired by the noble Baroness, Lady Verma. It was a great experience chairing the former sub-committee. I extend my thanks to the members for all their important contributions to this and other reports; above all, I thank the staff, particularly Rosanna Barry and Francesca D'Urzo, who put in heroic efforts on this and earlier reports.

However, we are now 20 months on. The report itself is a bit bifurcated. Although our evidence was clearly focused on what we felt was needed for a full-scale transport aspect for a free trade deal, the subsequent failure to find a Commons majority in support of the then Government's Brexit deal meant that we had to concentrate also on increased preparations for no deal. We now have a serious case of déjà vu. The reality is that we—and, crucially, those working in and reliant on our cross-border transport sector—are in much the same place: waiting for clarity on the kind of arrangements we will have with the EU while simultaneously preparing for the possibility that there will be no arrangements at all.

Indeed, the Road Haulage Association made this precise point in paragraph 56 of the report. It said:

> "If we find ourselves here again in two years' time, looking at a situation where we are leaving but we do not know what customs arrangements we will have and what the permits are for road haulage, we will be in the same position as we are in now."

Only last week, after a meeting between the haulage industry and Michael Gove, the Road Haulage Association said that there has been "no clarity" on how border checks will operate once the transition period ends after December. The Freight Transport Association expressed similar frustrations.

The report addresses not only road haulage but also bus and coach travel, private drivers, vehicle standards, rail and maritime transport. I will address each of these modes in turn and then put some questions to the Minister.

I turn first to road haulage. The EU has a liberalised single market framework for cross-border road haulage. Operators with a community licence may transport goods across, between and within other member states. Therefore, a haulier from one member state moving goods entirely within another is known as cabotage. The transport of goods between two member states by a non-resident haulier is known as cross trade. This is all made possible by the community licence system, which, of course, the UK will now be outside. The Government told us that 43% of international trips by UK hauliers involve an element of cross trade, cabotage or both. That said, UK hauliers are only part of the story: the EU and particular member states also have interests in aspects of UK cabotage and cross trade arrangements, and a trade-off between these interests in a future haulage agreement could benefit both sides—but we are nowhere near that.

The Minister said that we are looking for reciprocal arrangements, but we know that there are quite serious differences between the two sides. The UK negotiating position suggests that both sides should be entitled to provide services to, from and through each other's territories with no quantitative restrictions. However, the EU negotiating position on open market access for road freight transport is that UK hauliers should not be granted the same level of rights and benefits as those enjoyed by EU hauliers in respect of cross trade and cabotage. Clearly, any form of reciprocity, even if we get an agreement, is not going to be the same as "carry on as usual". Without an agreement on UK-EU haulage arrangements, hauliers moving between the UK and EU would need to rely on the European Conference of Ministers of Transport—ECMT—permits,

[Lord Whitty]
which are much more restrictive and very limited in number or, possibly, on the revival of historic bilateral agreements from individual member states.

Therefore, what can the Minister tell us about how much progress has been made in the negotiations or other arrangements for road haulage? Does the Minister agree that if no deal is found, the number of available ECMT permits will be vastly outstripped by demand from UK-based hauliers? Is it true that demand exceeds likely supply by at least four to one? Can and will this shortfall be addressed by other arrangements? When we faced the possibility of no deal, the EU had agreed a short-term contingency arrangement that would operate for a period of months. Is that contingency arrangement still on the table or do we have a new one? If not, do the Government intend to revive historic bilateral haulage agreements with individual member states, or is some other multilateral form of conference envisaged? Even if there were an agreement on no tariffs between the UK and the EU, and no quantitative restrictions, the EU would require new administrative procedures and there would be checks at our ports. Last week, after their meeting with Ministers, the RHA and the FTA claimed that the proposed electronic system will be ready to be put into operation from January. Can the Minister tell us whether that is true?

We have to face facts: extra checks and regulatory procedures will cause delays. What is the Minister's current assumption about the slow-down of traffic through Dover and the effects of back-up and long traffic jams on Kent roads? The Government clearly anticipate this log-jam. Can the Minister tell us how much new lorry parking space is demarcated in Kent and back to the M25? Is it true that a designated Covid test centre near Ebbsfleet has just been requisitioned for a lorry park?

Of course, we must recognise that this is not a matter for just the road haulage sector. The whole of our food supply sector, the manufacturing industry's dependence on integrated component transfer between different countries, and the supply of medicines and chemicals are all largely dependent on the just-in-time delivery ability of our road haulage sector. Therefore, there are a lot of questions on road haulage, none of which seem to have been answered effectively.

Briefly, on the bus and coach transport aspects, the UK's accession to the Interbus agreement—a multilateral treaty for passenger transport, which includes the EU—would, for the most part, ensure the continuation of cross-channel ships without any great difficulty. However, it is currently limited to one-off, occasional journeys such as coach holidays or school trips and does not include regular, scheduled services or transit through non-contracting parties, such as Switzerland. The limitations of the Interbus agreement will have a particularly critical impact on the island of Ireland. The Government's negotiating intention seems to be to secure continued connectivity for commercial passenger transport, but it is also clear that Monsieur Barnier's mandate only affects the use of Interbus. Will the Minister tell us whether cross-channel bus and coach transport is likely to be limited to arrangements under the Interbus agreement? Has any further progress been made on the extension of Interbus to include regular and special regular services?

There is also the issue of private motorists, which does not seem to be covered in the Government's negotiating document, issued last February. EU arrangements provide for the mutual recognition of driving licences and drivers from EU member states, so that they do not need to carry proof of third-party insurance cover or have any other requirements while driving in the EU. Without similar successor arrangements, UK drivers wishing to drive in the EU will need to carry an international driving permit and a green card as proof of insurance. Do the Government expect to reach an agreement with the EU on mutual recognition of driving licences? On the insurance side, will the Minister confirm whether the UK will be part of the green card-free circulation as of 1 January 2021?

We also touched on the issue of vehicle standards. The Government's negotiating objectives speak of type approvals based on UN regulations as well as co-operation mechanisms to address regulatory barriers. Can the Minister clarify whether the Government seek to achieve mutual recognition of type approval for whole vehicles, and, if so, whether this objective is shared by the EU?

On rail, the Government's negotiating document makes no mention of it. Indeed, it was made clear from the outset that there would be no comprehensive rail agreement with the EU: instead, a bilateral approach would be taken with Ireland, France, Belgium and the Netherlands to maintain existing international services. Will the Minister tell us how that is going? Can we be assured that the necessary bilateral arrangements will be in place by 1 January? While the Government's approach to the implications of Brexit for the rail industry focuses on the maintenance of cross-border passenger and freight services, our report sets out that our rail industry's interactions with the EU are more wide-ranging. Indeed, UK and EU operators, manufacturers and drivers access each other's markets to mutual benefit. Witnesses told us that south of Derby, almost half of the rail supply industry workforce is from the EU. Therefore, do the Government see any need for maintaining mutual market access for operators, manufacturers and drivers beyond what can be achieved through a limited number of bilateral agreements? At this point, I note—slightly more positively—that while the UK has been active in the development of common standards in the rail sector, this was one area where the inquiry witnesses saw some potential opportunities for divergence from the EU which would meet more local conditions on our domestic routes.

Turning to maritime issues, maritime is, of course, largely liberalised and dependent on international standards. However, we were struck by the failure to mention the European Maritime Safety Agency in the Government's position, despite the fact that that was one of the objectives agreed to in the political declaration. The more recent negotiating agreement makes no reference to the EMSA co-operation. Can the Minister confirm that the necessary preparations have taken place for UK authorities to have access to safety, security and environmental information formerly provided by EMSA when we pass beyond 1 January?

We devoted a significant part of our report to the situation on the island of Ireland. That has now been overtaken by the bigger, controversial issues relating to movements across the border and between Great Britain and Northern Ireland, so I will not go into that in great detail today except to emphasise that one of the most detrimental effects of Brexit will be on the Republic of Ireland. We need to ensure that those relationships with our nearest neighbour are dealt with properly. Do the Government think that they will reach an agreement specific to Irish trade with the EU or will we have another bilateral agreement with the Irish Republic?

In summary, we have inched toward a bit of an understanding of what some aspects of UK-EU service transport will look like in just over three months' time. However, the industry itself says that that is not enough. Our hauliers in particular, and those who rely on cross-border bus services, are in the dark. My final question for the Minister is: if a free trade agreement with the EU does not emerge—which will now have to be by the end of October—will the earlier contingency arrangements that were proposed by the EU operate for a few months? In other words, are we not faced with an immediate cliff edge? If they do not operate, do the Government intend to put in place any contingency measures themselves to buffer the market access and to ensure some smoothness of transfer into the EU, which will benefit not only our haulage industry but much of our manufacturing and food-supply sectors? I beg to move.

2.46 pm

Lord Bradshaw (LD) [V]: My Lords, this debate, as the noble Lord, Lord Whitty, said, is very late. The report from the Committee of which he was a member is old, and the Government's observations attached to the report are out of date. They date from the time that Ministers thought that leaving the EU would be pain-free. Now we must face fast-approaching reality. We want to know the latest information on the current state of the negotiations. Separately, we need the latest intelligence on how the new arrangements, whatever are, will affect people.

I will deal with the easy bits first. Will train travellers via the Channel Tunnel be separated as they get on and off their trains from people travelling to and from Europe on EU passports? Will passengers arriving either by air or sea have to occupy separate channels to those with British passports—whether they be red or blue—and other EU travellers? Have arrangements been put in hand to cater for the logistical problems that this will cause in terminals? We presume that passengers arriving by air and sea will be dealt with in the same way as passengers arriving by rail.

The noble Lord, Lord Whitty, has said that shipping will not be affected, but in fact a great deal of shipping is short-sea shipping. The thing that matters most is that the lorries that come and go on the ferries and the lift-on/lift-off containers are turned around very swiftly. If they are not, the economics of running the short-sea crossings—specialised in Dover, but also affecting other ports—will be very difficult to manage and very much more expensive. Unless those lorries come off and on almost simultaneously, as they do at present, more ships and more port facilities will be needed.

What about traffic arriving by lorry? What arrangements are being made? That is what the noble Lord, Lord Whitty, pressed. The hauliers, who, almost to a man, were probably supporters of the Government on Brexit, are in the dark as to what will happen. Are we to have massive lorry parks? Whereabouts will they be? Will they be a permanent feature of our landscape? Will planning consent be needed for them and will local authorities be involved in granting it? Will they grow into freight villages? If they have servicing, sleeping, refreshment and other facilities they will become small towns. Who will pay for them? It is normal in transport for an operator to pay for his own terminal facilities. However, the lorry drivers who use these new facilities should pay something towards the cost of providing them. Who will control the inevitable crime that will surround such areas? They will be targets for criminals of all descriptions, whether those smuggling people or goods.

I fear the Minister will have to answer so many questions in this debate that I will not go on listing them, because the noble Lord, Lord Whitty, has done that very comprehensively. However, unless there are answers, and quickly, as well as coronavirus we will have food shortages in our shops.

2.51 pm

Lord Blencathra (Con): My Lords, as one would expect from the EU Committee, containing so many distinguished members with considerable experience of these matters, this is an authoritative report. Of course, as has been pointed out, it is now two years old and a great deal has happened since then.

I will speak relatively briefly on road and maritime matters. On road haulage, it seems that there are two outstanding problems that I read about. I read that a group of eight logistics organisations wrote to the Government recently expressing concerns about IT systems and paperwork, as well as about keeping the supply chain going. Personally, I think that they exaggerated the concerns about food shortages. That is nonsense. Do your Lordships remember about two years ago, when the Opposition demanded a statement about the food catastrophe that we would not be able to get iceberg lettuces from Spain? "So what?" I thought, "They are tasteless rubbish in any case". The supermarkets brought them from California instead. There will not be shortages of food, but we may not get strawberries from Morocco in December as easily as before.

The media and too many politicians believe that trade happens because politicians and Governments make it happen. Not so; trade happens because there are people wanting to buy things and people wanting to sell them those things. We have seen how Covid-19 has changed the way businesses have managed to get round obstacles to acquire and sell goods. Do we seriously expect French cheese sellers not to find a way to get their products to the UK as speedily as possible, or for our retailers not to similarly find new suppliers and new delivery routes? The same goes for all EU food manufacturers and suppliers, so let us not exaggerate the dangers of food shortages.

As for new routes, can the Minister update us on the progress being made on enhancing alternative ports for import and export in addition to Dover? As

[Lord Blencathra]
for the IT problem, I simply do not know—I suspect that most of us do not—but I look forward to the Minister reassuring us on that point.

Finally on road haulage, I turn to the question of Brussels's refusal to grant British truckers wide-ranging access to the EU. Britain wants truckers to be able to continue picking up and dropping off goods inside and between EU countries. I understand that we also want transit rights for drivers crossing to places such as Turkey. In return, I understand that we have offered the right for EU trucks to travel to Ireland via the UK. I would like the Minister to update us on those discussions as well.

Surely we have a very strong hand to demand reciprocal rights. The vast majority of Irish/EU trade goes through Holyhead, with only a small amount directly moved between the Republic and EU countries. Quite simply, if the EU does not permit our truckers to pick up return loads in EU countries, it will suffer more if we refuse to let its truckers do the same on journeys to Ireland. I hope that the new Minister, my noble friend Lord Frost, will make that threat abundantly clear, in the nicest possible way, and that he will also point out that we have no intention of doing it unilaterally, so the EU should sensibly play ball here.

Turning to maritime, it was refreshing to read the committee's report showing that the UK is in an excellent position and that maritime transport is largely regulated by international rules, not the dead, bureaucratic hand of the EU. Every day in coming to this House I see the wonderful International Maritime Organization building on the other side of Lambeth Bridge, which is a symbol of the UK's leading role in maritime matters and rule-making.

The report of the noble Lord, Lord Whitty, quotes the Government's White Paper:

"The maritime sector is liberalised at a global level. On that basis, UK ship operators will be able to serve EU ports largely as now, following the UK's withdrawal from the EU."

The report goes on to say:

"Maritime transport is generally liberalised and underpinned by an extensive body of international law. Post-Brexit, UK and EU ship operators will in most respects be able to access each other's ports as at present."

However, the report raises concerns about cabotage—mentioned by the noble Lord, Lord Whitty—which is regulated at EU level, and says that some companies could be affected. Can the Minister confirm how much that would be on a worst-case scenario and how many companies would be affected? I read somewhere that it would be very few, as it is a small part of our business.

Surely any losses in that area can be more than compensated for if we push ahead with free ports. I am a huge supporter of free ports, and I quote the International Trade Secretary Liz Truss, who said:

"Freedoms transformed London's Docklands in the 1980s, and freeports will do the same for towns and cities across the UK. They will onshore enterprise and manufacturing as the gateway to our future prosperity, creating thousands of jobs."

Supporting this claim, the construction group Mace says that free ports could help create 150,000 new jobs, while annually contributing £9 billion to the UK economy. I understand that the British Ports Association has joined forces with a number of organisations—the Port of Milford Haven, the Port of Tyne and the Institute of Export and International Trade—to create a new trade campaign called Port Zones UK. In September, the alliance published a report outlining a number of areas of intervention the Government should look into if they want to attract international investment as part of their free port programme. The study also promotes

"regional growth centred on key UK transport hubs, through the designation of enhanced 'Enterprise, Development and Free Trade Zones'."

In conclusion, can the Minister comment on the progress we are making in pushing ahead with free ports, and does she agree that the jobs created and money invested would far outweigh any losses caused by cabotage?

I commend the Government on the robust stance we are taking on negotiations with the EU and all the excellent preparations being made for a no deal, and I look forward to hearing from the Minister.

2.59 pm

Baroness Donaghy (Lab) [V]: My Lords, I am pleased to take part in this debate on a report on which we worked very hard. It gives me the opportunity to pay tribute to my noble friend Lord Whitty, who chaired the EU Internal Market Sub-Committee, and to the staff, who had an enormous quantity of evidence to sift through. My noble friend is a hard act to follow, and I believe that the report's recommendations remain valid 16 months after its publication. We spent equal time on all the important areas—not least the impact on the Northern Ireland economy, as my noble friend said.

I will say a little about private motoring but will concentrate mainly on road haulage. On private motoring, can the Minister say whether there is any progress on achieving—as my noble friend Lord Whitty asked—the green-card-free circulation area? Also, in the Government's response to the report, they stated that the Department for Transport was "progressing" bilaterals on driving licence recognition. How much progress has been made and how many bilaterals have been pencilled in, even if not formally signed? Thirdly, do we have any figures showing demand for international driving permits and whether the Post Office route has led to problems?

We know how important road haulage is to the lifeblood of our economy. The CBI indicated that there is more roll-on roll-off lorry movement between the UK and the EU through major ports each year than there are container ships to and from the UK and the rest of the world. Using the Department for Transport's statistics, the CBI said:

"The consequences of no deal for the haulage sector will ripple through the economy, not least for food and drink trade, with food products accounting for 15% of all commodities exported via road and 36% of imports."

The Freight Transport Association says that the average haulier operates on a 2% profit margin, so any costs arising from no deal with be passed on to its customers.

In the Government's response to our report, dated July last year, the then Minister, Chris Grayling, talked about the new exit date of 31 October and referred to the preparations still being in place for the original 29 March leaving date. Apart from another new date

of 31 December 2020, we have had two new Conservative Administrations and one or two new Transport Ministers. I do not think that the 16-month gap will have led to many changes. The negotiations are still ongoing, with road haulage still a point of friction.

I accept that the Covid-19 pandemic has further complicated the task. Nevertheless, I have a few questions for the Minister as to whether there have been any changes since our report was published. The Government understandably want a deal, seeking reciprocal arrangements that are "as frictionless as possible". It is stated that a permit scheme was "not our preferred position". Has there been any progress in this area?

Recommendation 6 of the report indicated that we did not consider a cabotage agreement essential to the UK, apart from the separate issue of Northern Ireland. However, given the figures for some east European countries, the UK must have some leverage in this area, as those countries will want to protect their interests. I would be interested in the Minister's comments on that as negotiating leverage. If there is no agreement on cross trade or cabotage, what help will the Government give UK hauliers to adapt their businesses?

Recommendation 5 indicated that some sectors or operators might be more badly affected by no deal. However, the Government were unable at the time to identify those areas. Are we any clearer about these sectors and operators? The Government referred to

"the main effect being an adjustment in how hauliers operate."

What assistance, if any, will they receive for that adjustment?

Recommendation 7 refers to the possibility of

"a limited, shared allocation for cabotage and cross-trade journeys",

and thought this "might provide a model" for the future. Does the Minister agree? How burdensome might it be?

Recommendation 8 refers to

"social standards and conditions of employment."

It states:

"The limited benefits of regulatory divergence are unlikely to outweigh the opportunities of greater market access."

The Government's response referred to

"how EU regulation may develop in future."

Surely the Government do not expect to future-proof any deal? I know of few negotiated deals anywhere that achieve that.

Referring to the ECMT permits—I apologise for the jargon; it stands for the European Conference of Ministers of Transport—the demand vastly outstrips supply. The Government accept that these would be additional to other market access arrangements and are not sufficient on their own, and said that they do not intend to rely on such permits. The Government say that they are working with the industry on "practicalities". What are those practicalities?

On bilateral agreements, the Government are—quite rightly—concentrating on an EU-level arrangement. However, the Government's response says

"where existing bilateral agreements revive on exit".

It sounds a bit like Sleeping Beauty, does it not? Can we know what these revivals on exit will be?

Finally, I want to ask the Minister for an update—as did the noble Lord, Lord Bradshaw, and my noble friend Lord Whitty—on the position of lorry parks and other contingencies in Kent, both from the road haulage point of view and regarding the environment for the citizens of Kent.

We owe an enormous debt of gratitude to road hauliers for helping to keep the UK fed and provided for during the Covid-19 pandemic. I speak as someone whose late uncle was a lorry driver, as were my two brothers-in-law, who are now retired. My stepson is still a lorry driver. I hope very much that the Minister can give us some more concrete information. I must say, I am doubtful, but nevertheless I welcome any information since the publication of this report.

3.08 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a pleasure to follow the noble Baroness, Lady Donaghy, who always speaks with great authority. I also thank the noble Lord, Lord Whitty, and his sub-committee for such a well-considered and wide-ranging report. Despite being of some vintage, it is still very relevant, in that the issues that it raises have largely not been addressed so far, for reasons that may be in part understandable.

The various aspects of transport considered in depth are of central importance in the life of the United Kingdom as a great trading nation—and indeed as a great travelling nation, as we no doubt will become again as we succeed in negotiating the challenges of Covid. I hope that the Minister will be able to set out the general context of our discussions with our European neighbours, in relation not just to transport issues but to progress in negotiations overall because this clearly has an effect on the nation's mood and on all the issues that we are looking at today and many others. I hope that she will also be able to say something specifically about health protection in Europe. While that is not a transport issue as such, it clearly affects our haulage drivers and travellers. The GOV.UK website says, quite correctly, that the European health insurance card is valid until the end of this calendar year but goes on to say about travelling to Europe from 1 January 2021:

"Your EHIC might not be valid ... Buy travel insurance that comes with healthcare cover before you travel."

I wonder what the latest is. It is important for UK hauliers and travellers that we know the position, and in plenty of time for those who will travel in 2021.

The same applies, perhaps without the same urgency in that very obvious sense, in relation to roaming charges, which are also important for context setting. I know that there is no change in the transition period, but is the Minister able to give us an update on roaming charges? Will they return after the transition period? I appreciate that some phone companies have said that they will not for them, but are we succeeding in negotiating a position on this across all the countries of the EU? She may be able to set out the current scenario with precision. If not, I hope that she will write to me, copy that to other Members who contribute to the debate and place a copy in the Library. Those issues are backdrops to transport; they are not directly transport issues but of course are vital for travellers.

[Lord Bourne of Aberystwyth]

I will move to transport issues, and specifically those relating to road transport: road haulage, bus and coach and private motoring. As was noted by the noble Lord, Lord Whitty, there is lack of clarity on road haulage, which is the dominant form of freight transport in the United Kingdom. The vital nature of arrangements to preserve EU-UK market access for hauliers is undoubted, so where are we on this? The community licence system looks as though it will be lost, but is some suitable alternative being pursued and what is the likelihood of that being successful? As has been noted, the European Conference of Ministers of Transport permits are limited and unlikely to meet demand. Can the Minister confirm that that is not our preferred option and that we are focusing on some new licence system across the EU rather than the specific number of permits, which seems very much against British interests? Bilateral agreements may be an alternative, but clearly they are more clunky and clumsy than the previous more streamlined system.

Like others, including the noble Baroness, Lady Donaghy, and the noble Lord, Lord Whitty, I express concern about potential delays for immigration and customs controls and the consequences that that might have for Dover and Kent and, indeed, for Holyhead. I wonder what arrangements are in place and what are our best estimates of likely delays, lorry parks and the consequences if we have no agreement. News on that and on the position of the Government in preparation for that would also be welcome from the Minister.

On bus and coach travel, I note that we are proceeding on the basis of seeking to maintain UK-EU services, which would clearly be of great benefit. The difficulty with the Interbus arrangement is that it currently applies in relation to occasional services only, not regular or special regular services. Can the Minister confirm that we are seeking to extend the Interbus application with the EU states and the other states, largely in eastern Europe, which are also signatories and what is the likelihood of that to at least make things somewhat more palatable if we are unable to get a wider arrangement? Of course, it would still not apply to third-party countries, including countries such as Switzerland, so it is very much second best, but some update on that would be useful.

Turning finally to private motoring, again, it would be good to have an update from the Minister on whether we are able to escape to a more pervasive, mutual system from the international driving permit and green card insurance systems because they involve a visit to the post office, which is not always convenient, particularly for people who are not necessarily resident in the UK. What about the possibility of an online system to substitute for the post office system? Once again, it is clearly not the most desirable system.

Overall, confining my remarks to the road side of things, I wonder whether the Minister can give us an update and some indication of the likelihood of agreements to prevent what clearly is not desirable. A no-deal position is not what the Government want, I know, and is not what the country needs, particularly at present. If she were able to give us some reassurance and some indication of what arrangements are being made if that should happen—which we do not want—I would be most grateful.

3.16 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I join the congratulations to the noble Lord, Lord Whitty, and all members of the committee for this excellent report. Yes, time has marched on, but there seems to be little development that negates their excellent work and the contribution that they have made. I will ask the Minister a couple of questions for when she sums up. I very much associate myself with the comments of my noble friend Lord Bourne on roaming and mobile phone costs. I have pre-empted this personally by purchasing a SIM card that is valid in Denmark; in fact, I do not think that it is valid over here. That is my way of getting round the mobile phone charges that may come into effect.

I will refer briefly to work that relates more to road freight than to road passenger transport. The EU sub-committee on which I sit had cause to undertake an inquiry and look closely at the Irish border and the Northern Irish-Irish freight issue. I know that the noble Baroness, Lady Ritchie, is affected by it. It will have a huge impact on agri-foods. Equally, as we heard from the noble Lord, Lord Whitty, in presenting the findings of the report today, passenger transport—whether private or bus and coach—across the Irish border will be impacted if no deal is in place, so an update from the Minister on that would be particularly helpful.

On vehicle standards, paragraph 118 states:

"For vehicles to be registered, sold and enter into service, they must be type-approved by a recognised authority."

Can the Minister assure us that we will be in a position where future arrangements will be covered by mutual recognition for type-approval? If that were not the case, it would obviously mean that two separate approvals would be required for vehicles entering the UK and the EU. That would have cost implications for manufacturers that would inevitably be passed on to consumers. I support the Government's intention to seek mutual recognition for type-approvals for a mutually beneficial arrangement. As paragraph 118 says

"there is no exact precedent for such a regime"

so I hope that my noble friend will have good news on that.

I want to say a bit about cabotage and cross trade as it relates to lorries—road haulage—buses and sea. I was obviously privy to some of the negotiations as an MEP when the issues were negotiated, but they have had huge beneficial effects and an impact on the economy. Any loss of cabotage or cross trade benefits would be very difficult indeed.

I will also point to another advantage that I believe the European Parliament was at the forefront of, and that is the requirement that coaches must have seat belts fitted and that they must be worn. That was against the backdrop of a number of fatal accidents, often leading to children, but adults as well, being either fatally injured or suffering life-changing injuries. That was a very positive development that I hope we can have regard to.

My noble friend Lord Blencathra spoke glowingly about free ports. I am also very keen on free ports, but we have to be honest and bust this myth that we have had to leave the European Union to have free ports across Britain. Free ports exist across the European Union. Nothing in all the time we have been a member of the European Union has prevented us having free ports. We can park that one in whatever car park we will have after 1 January. Luxembourg, which does not have a coast, has free ports. Today's good news is that we can already have free ports and we do not need to wait for 1 January to have that.

On cabotage, I am again very proud of the role the European Parliament has historically played in that regard. Paragraph 30 in the report's recommendations says:

"Loss of cabotage rights would have negative implications for some UK operators."

I hope my noble friend will be able to put a figure on that and give us some assurance that our operators will continue to enjoy cabotage rights at sea, on the roads and on the buses. As the report has highlighted, this has been so economically beneficial.

I welcome this opportunity. It is still very timely, because we are almost at the 11th hour of the 11th day of the 11th month. It is a very positive contribution to the debate, and I look forward very warmly to what my noble friend has to say in response to the queries raised.

3.22 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, it is always a pleasure to follow the noble Baroness, Lady McIntosh of Pickering. I congratulate the noble Lord, Lord Whitty, and the members of his sub-committee on presenting such a comprehensive report on the impact of Brexit on maritime, road and rail links. Coming as I do from Northern Ireland, I will concentrate on the important east-west maritime links between Northern Ireland and Ireland, and the UK and further into the European mainland, and on cross-border rail and bus links, which are essential to our local economy on the island of Ireland, whether you reside in Northern Ireland or in the Republic of Ireland.

In reading the reports and some of the background, I noted some commentary that suggests that there is continuing disagreement between UK and EU negotiators over aspects of the future relationship in transport matters, which has helped put the brakes on progress in the current negotiations, with talks on the future of road haulage reportedly at a standstill. In fact, other noble Lords have already referred to this, most notably the outgoing chair of the committee, the noble Lord, Lord Whitty. I note the committee's conclusion:

"The island of Ireland's distinct social and economic ties place unique demands on its future transport arrangements. These conditions may not be best-served by broader negotiations on UK-EU transport arrangements. A solution may be found in an integrated bilateral approach to arrangements for passenger transport by rail and road."

Maybe the Minister could provide us with an update on those negotiations.

The EU's no-deal contingency measures made special allowance for passenger transport around the Irish border, albeit temporarily. The requirement for cabotage rights for passenger services on the island of Ireland precludes any reliance on the Interbus agreement or a future agreement based thereon. It is vital that a deal is reached to preserve Northern Ireland/Ireland bus services under any Brexit scenario. Where and what are the specific plans to do just that? What work has been done with the EU and the Irish Government, as one of the 27, to do just that? Maybe the Minister can provide an update. The UK has a strong interest in the maintenance of cabotage rights on the island of Ireland. Could the Minister confirm how this disparity will influence, or is influencing, its approach to negotiations on market access for hauliers?

The Government have said that the Dublin-Belfast Enterprise line, which I have used on many occasions, will instead be addressed through bilateral agreements. What is the current position? That rail line very clearly needs to be maintained, sustained and enhanced to minimise the journey time between Belfast and Dublin, and vice versa, to underpin our local economy. The Government state that they are

"fully committed to maintaining the success of cross-border services, both through the Channel Tunnel and on the island of Ireland",

and that they have been working

"with authorities in the UK and the relevant Member States, as well as the operators themselves, to ensure operators hold appropriate licences with EU validity in order to continue operating without disruption in the event of no deal."

The Government also say that they are

"committed to ensuring that the Belfast Agreement is respected and that North-South co-operation in the field of transport continues."

Further to my previous question, what contingency plans are in place to ensure the smooth running of the Belfast-Dublin Enterprise rail line? I realise that might be repetitious on my part, but it is very important to the Northern Ireland economy.

I note that the Government agree with the committee, in their response to the report, that

"it is important to secure the continuation of cross-border bus services on the island of Ireland".

What work has been done and is continuing to ensure that this happens? What has happened to work on cabotage rights by the British Government and the EU for hauliers on the island of Ireland? What contribution from the UK prosperity fund will be made available for the continuing upgrade of the infrastructure on a cross-border basis? What discussions have taken place with the EU and the Irish Government, as one of the 27, on buses and rail links?

I have one final issue, which is to do with goods carried by Irish and Northern Irish hauliers that will start in the single market, pass out of it, and, at Calais or other continental ports, come back into the single market again. Has there been any resolution on that? Given the EU's entirely justifiable need and desire to protect the integrity of the single market, how this will work creates another problem for our hauliers. Will lorries from the island of Ireland, both north and south, have to travel with sealed containers? Other noble Lords referred to the fact that, when you travel as a haulier from Northern Ireland, in the main you have to travel through Britain to go to mainland

[Baroness Ritchie of Downpatrick]
Europe. The noble Lord, Lord Blencathra, already referred to this. All the travel goes via Holyhead or Belfast, or other ports at Warrenpoint and Larne, to Britain and then on to Europe.

In the last few days, we have been warned that lorry drivers might have to spend days queuing to get through Dover and on to the cross-channel ferries. Will Irish lorries, with their goods already meeting EU rules and standards, be allowed to fast-track these queues? If so, who will ensure their security as they pass British lorries and their drivers, with frayed tempers all round? If not, what will happen to perishable goods from the EU going back into the EU? Will Irish hauliers have to pick up the cost of that ruined food? We should bear in mind that haulage companies on the island have a north and a south headquarters, and sometimes have an all-island aspect in terms of their ownership. They could have British-Irish ownership—so we must be mindful of the general economy.

I am conscious that the report was produced during the time of Theresa May and the backstop, which was succeeded by two different Conservative Governments and the Northern Ireland protocol. Now, we have the internal market Bill. In addition, ports in Northern Ireland have been instructed to provide the infrastructure to deal with the tariff arrangements, and in the last week, a company, Fujitsu, has been appointed to deal with the computerised arrangements for those tariff requirements. Will the internal market Bill currently before Parliament have an impact on those transport arrangements for maritime, rail and road?

I realise that I have asked a lot of questions—[*Inaudible.*]—if the noble Lord requires that. As a consequence, I make my submission.

3.32 pm

Lord Lansley (Con): My Lords, it is a great pleasure to follow the noble Baroness, Lady Ritchie of Downpatrick, who asked a lot of interesting questions. I look forward to my noble friend the Minister's response to some of them.

On her latter point about the impact of the internal market Bill, I am not an expert on this but it seems that we are all trying to reconcile the fact that there must not be a hard border between Great Britain and Northern Ireland or between Northern Ireland and the Republic of Ireland. We could try to reconcile that in the way that the European Union might do, in a legalistic way—that is, by saying that, if there is an absence of border checks between Great Britain and Northern Ireland, there must be border checks between the Province of Northern Ireland and the Republic of Ireland. That is a legalistic but misplaced view. But, equally, it is a misplaced view on our Government's part to think that they can simply dispense with the requirement to know, and have some evidence of, whether goods that are leaving Great Britain for Northern Ireland are genuinely at risk of entering the single market elsewhere beyond Northern Ireland. We will have to deal with that issue and, no doubt, we will have many hours of debate on the internal market Bill to try to resolve it—but it has not been resolved in over a year, which is why the former Prime Minister, Theresa May, resorted to the backstop. Perhaps I am in the minority, but I thought that she did a rather good job of putting the backstop together. But there we are—it is too late now.

On the point made by the noble Baroness, Lady Ritchie, I note that the *Irish Times* published an article today reporting that the Irish Road Haulage Association is looking for a daily direct ferry link from the Republic of Ireland to Le Havre because it is so anxious about depending on access for its hauliers through Great Britain and across the channel links. I am sorry that it thinks that, and I am sorry that confidence in hauliers' ability to come and go between Great Britain and the continent of Europe is so lacking. That is what we need to deliver.

Noble Lords talked about road issues; I will do so too. I am confident that I can focus on that issue knowing that the noble Lord, Lord Berkeley, is to come next. He will say far more about rail transport issues and will do so far better than I possibly could.

As a former member of the EU Internal Market Sub-Committee, I want to say how much I appreciated the excellent chairmanship of the noble Lord, Lord Whitty. He did a fantastic job, as did the noble Baroness, Lady Donaghy, as his successor before the committee was wound up and redistributed. The report we are debating was extremely useful at the time. I do not imagine that we would have thought a year ago that it would be as useful now—but I think that it probably is. Many of the questions derived from the report are exactly as relevant now as they were a year ago; it is just that there is now so little time now to deal with this matter. It must be dealt with rapidly.

I will not reiterate all the questions, but I want to add one or two points of my own. First, important as hauliers' permits are, the number one issue is hauliers being able to move through borders speedily and with minimising the delay. We knew, and discovered during the course of our evidence-taking, that the cumulative impact of additional delays on the part of hauliers through the port of Dover, for example, would accumulate exponentially. Unfortunately, we are all beginning to discover what exponential trends look like, and they are potentially extremely damaging. The issue is not simply about permits or customs—it is about the smart freight system. That clearly was at the heart of the reason why the Road Haulage Association only very recently, after a meeting with the Chancellor of the Duchy of Lancaster, said that the Whitehall meeting was "a washout". I think that it was about a lack of clarity about the delivery of a smart freight system.

May I make a further suggestion? It is difficult now to put in place systems that rely on information technologies at very short notice. But for a long time we should have been preparing a trusted trader scheme that would allow the people taking goods across to the continent to do so with much-simplified customs requirements. In particular, it would allow for those border requirements to be made before the hauliers arrive at the port, minimising the checks that need to be made at the port itself. That is what happens with the authorised economic operator scheme but, important as it is, that scheme is far too complex and costly for most small businesses to deal with. It is clear that a simplified version of the scheme should be put in

place. The legislation is available: the relevant section on authorised economic operators in the Taxation (Cross-border Trade) Act allows different classes of authorised economic operator to be specified by Her Majesty's Commissioners for Revenue. So, even now, such regulations could be put together and put in place before the end of the year.

Many noble Lords talked about the availability of permits, in the absence of the community licence scheme, following the completion of the implementation period. We know from evidence given to us that what was available under the European Conference of Ministers of Transport represented only 5% at best of transport needs. So far, there is nothing in what the Commission has published, including its notification to member states on 9 July this year, to indicate that it will make any substantial number of additional permits available. We must therefore be aware that this is not dependent on a Canada-style free trade agreement between us and the European Union since, by definition, Canada does not have any such agreement. It is a separate agreement. A suite of agreements will need to be reached between ourselves and the EU. We should not take the view that nothing is agreed until everything is agreed; we should be getting on and agreeing some things. In this context, although the mandates of the two sides clearly differed, compromise is of the essence. In this area, compromise in making additional permits available for UK hauliers, and for UK hauliers to understand the scale of the permits available to them, would make an enormous difference. The sooner that is done, the better.

I have one final point, on private motoring, in which I suppose I have an interest as, I guess, we all do in one form or another. We understood that international driving permits may, or may not, enable us to drive freely across Europe, depending on the relationship with member states. As others have done, can I ask my noble friend to tell us much more about what the department has done to arrive at bilateral agreements with member states? The Commission's notification in July said that driving licences

"will no longer benefit from mutual recognition under Union law"

but

"will be regulated at Member State level."

However, it referred only to member states that are contracting parties to the 1949 Geneva Convention on Road Traffic, whereas we heard evidence that we also need to be aware of the 1968 Vienna Convention on road traffic. In any case, I suspect that what is required is a set of bilateral agreements, so the question is to what extent are those bilateral agreements in place.

Finally, I reiterate the point made by my noble friends who were members of the committee. It is clear that many EU hauliers derive substantial economic benefit from bringing goods to this country and engaging in cabotage in this country. On the face of it, it seems to me perfectly clear that EU member states would want there to be a mutual agreement that would allow many EU hauliers to continue to provide haulage services to and in this country; the permits required for UK hauliers on the continent of Europe are, by comparison, relatively modest in scale. Therefore, it seems to me that there ought to be an agreement available. If the arrangements break down and we are in a position where our hauliers cannot go to the continent and continental hauliers—in particular, eastern European hauliers—cannot act in this country, everybody will lose out, including many of our businesses that rely on eastern European hauliers.

Last Thursday morning, I was on the A14 heading west. Every other large truck that I passed or that passed me was from Poland, principally, or Slovenia, Romania or Bulgaria. Eastern European hauliers are here in their thousands, and we want them to be here because we do not have the haulage capacity to replace them. Therefore, we need this part of our suite of agreements with the EU to be put in place as fast as we can.

The Deputy Chairman of Committees (Lord Lexden) (Con): I call the next speaker, the noble Lord, Lord Berkeley. Lord Berkeley?

Lord Lansley (Con): His train is late!

The Deputy Chairman of Committees (Lord Lexden) (Con): Can the noble Lord, Lord Berkeley, unmute?

Viscount Younger of Leckie (Con): Could the noble Lord unmute, please?

The Deputy Chairman of Committees (Lord Lexden) (Con): We will try to go back to the noble Lord, Lord Berkeley. I call the noble Baroness, Lady Scott of Needham Market.

3.44 pm

Baroness Scott of Needham Market (LD) [V]: My Lords, I hope that we are successful in retrieving the noble Lord, Lord Berkeley, since he is certainly always worth listening to.

I am grateful to the noble Lord, Lord Whitty, for introducing the committee's report. With much of the evidence almost two years old, I am really quite alarmed that it has taken so long for the report to come forward for debate. Having chaired an EU sub-committee myself, I know just how much work goes into these on the part of Members and staff but also witnesses and those who give evidence.

More than 20 years ago now, I was a county councillor in Suffolk and deputy chair of the Local Government Association and I was appointed to the transport committee of the EU Committee of the Regions. It was clear then that membership of the European Union and the way it was developing were making significant changes both to the demand for transport across the continent, as the single market expanded, and to the way in which transport was organised and the various regulatory frameworks that underpin it. The noble Baroness, Lady McIntosh, is exactly right to say that there were many good things and it is a pity that we will lose those, and perhaps seeing what we can salvage from that would be an excellent way forward.

We have moved far beyond the stage of bemoaning Brexit, and what we must do now is focus on the practical implications, which are now just a matter of weeks away. What is surprising, in a report that is as old as this, is just how few of the committee's concerns have been addressed, as the noble Lords, Lord Whitty

[Baroness Scott of Needham Market]
and Lord Lansley, have pointed out. It has become clear that transport, and particularly road transport, is still a significant point of difference between the UK and the EU. As recently as 2 September, Mr Barnier reflected that UK demands were too close to wanting existing single market-style rights, without meeting any of its obligations. That does not bode well, and nor does the current mood music emanating from Downing Street.

We need answers to pressing issues right now. It will not be good enough to wait until problems ensue, because then we are likely to be trying to put in place hasty solutions, perhaps sought from a position of weakness—I am not as optimistic as the noble Lord, Lord Blencathra. In that case, we will need real co-operation with our former partners, and I am afraid that the sort of rhetoric that we have seen so often is not creating the harmonious environment that we need. Nowhere will that impact more than in Northern Ireland, as we heard from the noble Baroness, Lady Ritchie.

A large-scale study carried out in July by Descartes, a leading logistics business, found that two-thirds of large firms are very or extremely concerned about longer delays in their supply chain that would impact their business post Brexit. Fewer than one in five of UK businesses are prepared for a no-deal Brexit, and two-thirds of businesses have had their preparations disrupted by Covid-19. That is not a happy picture.

I shall concentrate most of my remaining remarks on road haulage, because that reflects the balance of this afternoon's debate, but I shall make one quick point on maritime. Maritime transport is indeed an international trade and is regulated internationally very effectively by the International Maritime Organization, as the noble Lord, Lord Blencathra, pointed out. As a former board member of Lloyds Register, I know the IMO very well, and I know that, effective as it is, it is not in any way democratically accountable. Indeed, when I was chairing a sub-committee and asked the IMO to come and give evidence to our inquiry, it simply refused and said, "We don't do that," so I think that the noble Lord needs to be a little cautious about the extent to which the IMO might be a model.

Returning to roads, Logistics UK has just warned that the new freight management system will not be ready in time for the end of transition in January. Can the Minister confirm whether that is the case and outline what will be done in the interim? The special permits and bilateral agreements with individual member states will facilitate some EU-UK haulage, but they will almost certainly not be sufficient to meet demand and will require negotiation. As the noble Lord, Lord Bourne said, it is going to be clunky. With no-deal Brexit looking increasingly likely, what is the Government's assessment of the impact of no deal on the road haulage industry and subsequently on the supply chain?

The report highlights the importance of consultation with the haulage industry. Last week it was reported that Mr Gove had met representatives in talks that the Cabinet Office described as constructive. That is a relief, I thought, until an unnamed source from the haulage side described the talks as a "washout". More constructively, the chief executive of the Road Haulage Association, said that they

"fell far short of our expectations."

So while we are still embroiled with Brexit, the EU is continuing to develop new proposals. At the end of July, it produced its new mobility package, which will impact on freight transport access and access to the profession. Can the Minister say how the UK will respond to these rule changes and how they will impact on UK drivers in the EU and vice versa?

I want to ask the Minister about the lorry parks, which the noble Lords, Lord Whitty and Lord Bourne, and my noble friend Lord Bradshaw all mentioned. Here in Suffolk we are pretty sure we will end up having one. I understand why the Government have to do this in the way that they are suggesting, but I am sure that they will understand that it leaves a lot of local communities concerned. Can the Minister give any kind of assurance that, in the absence of the usual planning processes, there will be any mechanism for local communities to have their say on important details, such as the hours of working, mitigation for noise and light pollution, and increased and perhaps unsuitable use of local roads?

If we have some sort of normality next summer, many thousands of people will want to head to mainland Europe for holidays and many will want to come here. As things stand, we have mutual recognition of driving licences and drivers' insurance cover when in the EU. Without similar successor arrangements, it is not at all clear what will happen next year. UK drivers will need an international driving permit. I understand that the committee's recommendation that there should be an online option still has not been carried out and that you still have to go to the post office in person. Will the Minister say what will be done to improve the accessibility of the permit? What will be the position for EU drivers coming here?

With regard to bus and coach travel, can the Minister confirm that passenger rights conferred by the EU regulation have been transferred to the UK body of law?

Finally, the report points out that bus and coach travel is liberalised at the EU level, and the committee has called for an agreement to retain reciprocal market access. Without that, Interbus will be of very limited use. Can the Minister update the Committee on progress on bus issues? I look forward to hearing from her.

The Deputy Chairman of Committees (Lord Lexden) (Con): I understand that connection with the noble Lord, Lord Berkeley, is still impossible, so I call the next speaker, the noble Lord, Lord Tunnicliffe.

3.53 pm

Lord Tunnicliffe (Lab) [V]: My Lords, I thank my noble friend Lord Whitty for introducing the report. It seems surprisingly fresh despite the fact that it is 16 months old. It is fresh because virtually all the questions it asks have not been answered. That is to a large extent echoed by many participants in today's debate. With the exception of the noble Lord,

Lord Blencathra, who has a degree of heroic optimism, which I hope comes to pass, but I doubt it will, most participants have noted a number of questions left outstanding. The exception to this, to some extent, is the questions and important issues brought out by the noble Baroness, Lady Ritchie. After her, the noble Lord, Lord Lansley, hit the nail on the head by saying that there is very little difference between where we were 16 months ago and where we are now, except that now we have so little time.

The report before the Committee demonstrates, above all, that the UK needs to get on and deliver a Brexit deal or risk a multitude of issues for UK-EU surface transport. The implications for road alone, detailed in this report, are enormous. The uncertainty over UK-EU market access for hauliers benefits nobody, and sadly still remains, 16 months after the report was published.

Of course, the concerns noted in the report are held not only by the committee. Earlier this month, road hauliers warned that the Government are "sleepwalking into a disaster" over their border plans for the end of the Brexit transition period on 31 December. Groups representing truckers have written to Ministers warning of "severe" disruption to supply chains. Rod McKenzie, from the Road Haulage Association, said the Government should

"act now before it's too late."

He told BBC News:

"It is a real case of the government sleepwalking to a disaster with the border preparations that we have, whether it is a deal or no-deal Brexit at the end of December.

The supply chain on which we are all dependent to get the things we need could be disrupted and there is a lack of government focus and action on this…

When we are trying to emerge from the crisis of Covid, if we then plunge straight into a Brexit-related crisis, that will be a really difficult moment and we need real pace.

The difference here is between a disaster area and a disaster area with rocket boosters on."

Subsequently the group held a meeting with Ministers. The Road Haulage Association described its meeting with Michael Gove about post-Brexit arrangements as a "washout". The body said there had been no clarity from the senior Minister on how border checks will operate when the transition period ends after December. The Road Haulage Association chief executive Richard Burnett said that it,

"fell far short of our expectations."

He went on:

"The mutually effective co-operation we wanted to ensure seamless border crossings just didn't happen and there is still no clarity over the questions that we have raised."

Since the publication of the report, fresh concerns have emerged from the industry over the preparedness of customs agents, IT systems and physical infrastructure. Can the Minister detail what steps the Government are taking in response to these issues? Can she spell out in detail how the road haulage industry will operate from the beginning of January in the event of no deal? The report specifically called on the Government to work closely with the road haulage industry and, based on a number of recent comments by the industry, it seems unlikely that this is ongoing.

Unfortunately, the issues with the Government's policy for road transport are not restricted to haulage. Bus and coach travel remains a popular mode of transport between the UK and Europe, and the report notes the importance of the Interbus agreement to allow this. Can the Minister confirm whether the ratification of the Interbus agreement and its protocol is still expected by the end of the transition period?

On personal drivers, although the point in the report relating to the mutual recognition of driving licences was agreed for the transition period, what is the situation from 1 January? Can the Minister detail what steps the Government have taken to communicate with drivers to ensure that there is clarity about whether they need an international driving permit?

On rail meanwhile, many of the issues in the report remain outstanding. The report makes clear, in particular, that the Government's decision to leave the European Union Agency for Railways is fraught with issues. Can the Minister confirm why the Government did not pursue the option of associate membership? On the Channel Tunnel—which, as the report notes, plays a pivotal role in UK-EU trade—it appears there are still issues relating to its continued operation which remain unsolved. Last week, the European Council noted France's intention to renegotiate aspects of the treaty of Canterbury, which was signed with the UK in 1986. Can the Minister confirm the Government's position on potential negotiations?

With only months to go until the end of the transition period, it could be expected that the Government would be prepared for all eventualities, but many questions remain unanswered. Can the Minister confirm what engagement is taking place with rail stakeholders and, specifically, what advice is being offered for the possibility of leaving the transition period without a deal?

Recently, the European Commission advised rail stakeholders to ensure establishment in the EU, authorisation by the European Union Agency for Railways and certification by EU-based notified bodies and designated bodies. Can the Minister confirm where such similar advice has been issued by the UK Government?

Maritime is another area fraught with uncertainty. The UK is in the fortunate position where maritime transport is dealt with mostly by international law, providing for access to ports in any situation. However, questions remain over the future of areas such as roll-on roll-off ports. Can the Minister provide an update on recent negotiations in this regard? In anticipating potential disruption to services, can the Minister detail what measures are being implemented to ensure that shipping routes remain open?

At a time of enormous uncertainty, the transport industry needs competence and consensus so that the country can move on and recover. We are in the middle of a public health emergency and an economic crisis, yet Ministers are instead preoccupied with the task of preparing for a cliff edge. I hope that the Minister can at least provide assurances on the issues that noble Lords have raised today and assure the Committee that the Government will do everything in their power to get on and deliver a Brexit deal.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): I am afraid that we are still unable to connect with the noble Lord, Lord Berkeley, so I call the Minister.

4.01 pm

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, I thank the noble Lord, Lord Whitty, and congratulate him and his committee on this report. Although it was published well over a year ago, many of the areas that it covers areas remain relevant today as negotiations continue. To an extent, that will mean that I will not be able to answer all the questions asked because, of course, many of them remain outstanding. That is one reason why the Government have endeavoured to set a deadline by which agreement should be reached, so that we can then make progress with whatever follows. The report makes it absolutely clear that we must be ready for the next phase, whatever that may be.

In transport, we are focused on arrangements that will maintain connectivity, specifically for road, air and maritime transport. We do not need an agreement with the EU on rail as we can already ensure connectivity using other arrangements. The report being debated today covers road, rail and maritime. I shall endeavour to cover the points that were made; as ever, if I am unable to respond to everything, I shall write.

Our aim is to agree a liberalised market for road transport—for haulage, buses and coaches—with no quantitative restrictions. Any agreement must respect our right to decide for ourselves how we regulate those sectors in the UK. Road haulage is, of course, very important. As my noble friend Lord Lansley pointed out, the volumes going across the short straits, for example, are much greater for EU hauliers than for UK ones. Over the course of the pandemic, I have had the opportunity to have many frequent and productive conversations with the road haulage sector. One thing that I took away from my conversations with people from that sector is that it is fantastic to speak to them but sometimes they do not lobby subtly; it is often very black or white, with very few shades of grey. Obviously, conversations will continue with road haulage representatives; we appreciate their input.

We are starting from a position in which we want point-to-point movements and transit, and we are open to discussions on additional rights. These would not be along the lines of our current rights under EU law. We appreciate that the relationship between the UK and EU will be of a different nature, but there are sensible operating flexibilities—for example, around cabotage and cross trade—that would make haulage operations more efficient by reducing traffic and helping the environment. Indeed, we have UK hauliers who want to get to Turkey via the EU, and there are a lot of EU hauliers who want to get to Ireland via the UK. It seems to me that an agreement should be possible.

Turning to permits, which have been addressed by many noble Lords—particularly the noble Lord, Lord Whitty—the UK and EU agree on the importance of securing unlimited, permit-free rights to access each other's territories. There is a range of ways in which that could work, including the mutual recognition of existing documents issued to UK and EU hauliers for international carriage without the need for new paperwork. However, if a permit-free agreement is not reached, the framework and systems established through the Haulage Permits and Trailer Registration Act will allow us to cater for a full range of outcomes, including a permit scheme. For the avoidance of doubt, the UK Government have made it clear that they do not want to see the introduction of permits for transport services between Northern Ireland and Ireland.

ECMT permits will continue to provide market access for UK hauliers in any Brexit outcome, but many noble Lords have noted, including my noble friends Lord Bourne and Lord Lansley, that they are limited in number. We do not intend to rely on ECMT permits alone; instead, ECMT permits will provide additional capacity to UK hauliers alongside other market access arrangements, such as bilateral agreements with member states. In the absence of an appropriate agreement, the UK would be open to discussing contingency measures with the EU and would seek to supplement the ECMT permit system with bilateral agreements. The UK has historic bilateral agreements with all EU member states—aside from Malta, for reasons of geography—and it is our assessment that 21 of those agreements would come back into effect should an overall deal with the EU not be reached. The ones that have expired offer a good basis for discussions relating to a new agreement.

On passenger transport services, the UK has already made arrangements to accede to the Interbus agreement, as noted by many noble Lords, which will secure rights for UK operators that undertake occasional services—that is, coach holiday-type services. The agreement will be shortly expanded to cover regular and special regular services. The extension to regular and special regular services will take effect, for the contracting parties who sign it, on the first day of the third month after four parties, including the European Union, have signed it. I am very pleased to note—this is very significant—that the EU has now signed the agreement, and we would expect other parties to join in signing that agreement so that it can come into effect in due course. As the committee's report highlights, the Interbus agreement does not provide for transit through the EU to countries that are not contracting parties to the agreement. The Government recognise the need to secure road transport arrangements with the EU that allow transit.

I turn to private motoring which, as my noble friend Lord Lansley pointed out, will probably impact most of us, as we like to travel to the EU. We are committed to establishing arrangements with member states, which, frankly, minimise bureaucracy. Arrangements for driving licence recognition and exchange do not form part of a free trade agreement. Therefore, Department for Transport officials are progressing bilateral discussions with member states to agree arrangements from January 2021; those arrangements will be publicised in due course.

International driving permits may be required to travel to the EU. They are currently issued by more than 3,000 post offices. The noble Baroness, Lady Donaghy, asked what additional capacity might be available, should demand be too great for the capacity. There is the possibility of a further expansion to an additional 1,500 post office branches, if the

demand is significantly increased. At the current time, the average driving distance to a post office with an IDP service is around two miles; 95% of the population is within five miles of an IDP-issuing post office branch, and 99% is within 10 miles.

My noble friend Lord Bourne mentioned introducing an online system. The introduction of such a system would need to take into account that data for Northern Ireland is not held by the DVLA; that would not make any introduction impossible, of course, but perhaps a bit more challenging. For the time being, we are confident that the post office system will be able efficiently and effectively to meet demand.

On motor insurance, the Government believe that the UK can and should remain within the green card-free circulation area once we leave the EU. The UK is maintaining the requirement for third-party motor insurance for travel, and meets all requirements needed to remain a part of this area. We continue to urge the European Commission to commit to issuing an implementing decision that would ensure that UK motorists can drive in the EU without a green card, and vice versa.

On vehicle standards, the UK is an active and respected member of the United Nations Economic Commission for Europe World Forum for Harmonization of Vehicle Regulations, otherwise known as UNECE. We expect to maintain the high level of influence on the development of international vehicle technical standards that we currently enjoy. UNECE leads on the development of safety standards which are adopted globally, including by the EU, and internationally harmonised versions of the EU's environment standards are in development. The UK is already taking the opportunity to lead on the development of standards for new technologies—for example, on assisted and automated driving—through the relevant UNECE groups.

On type approvals, there is currently no precedent for a regime of mutual recognition of whole vehicle type approvals between the EU and a third country. The Government's approach is to emphasise opportunities for co-operation, as well as ongoing mutual recognition of UNECE approvals issued by the UK's type approval authority, the Vehicle Certification Agency, or the VCA, and its EU counterparts. The VCA will continue to issue these UNECE approvals, which already cover the majority of requirements needed to access the EU market. From the end of the transition period, manufacturers will need GB type approval to allow registration of new vehicles. The VCA is, of course, working with manufacturers to ensure that they will be ready for the end of the transition period.

On rail, I am very sorry that the noble Lord, Lord Berkeley, was unable to join us today, as he would clearly have taken a great interest in this area. We are fully committed to supporting the success of our vital international rail links through the Channel Tunnel and on the island of Ireland, for business and leisure travellers and freight, and we have supported operators in establishing robust measures to ensure that they continue in the future.

On the Channel Tunnel specifically, the Government are engaging with France to establish bilateral agreements to further support the continuation of services through the Channel Tunnel and to provide long-term certainty for operators. The Government have also published technical notices on rail transport to communicate to operators—including both current and prospective cross-border operators—the steps that they will need to take to hold valid EU licences from the end of the transition period.

The noble Lord, Lord Bradshaw, asked a series of questions about arrangements for passengers on the Eurostar and, indeed, on other modes of travel, at passport control. I can confirm that the necessary preparations are being made.

Turning to maritime, while ships will continue to trade between UK and EU ports in all scenarios, a free trade agreement can provide assurances to both parties that their shipping companies will not be treated in a discriminatory way. The UK's approach to negotiations did not make reference to shipping. Neither the UK nor the EU has ever suggested that it will restrict access to ports by the other party's shipping. Engagement between the two sides on maritime has been constructive.

With regards to divergence, in areas where the EU has legislated—and which are not regulated by the international organisations—there is scope for divergence. One such example is domestic shipping services in UK waters. While we do not in practice prevent companies from other countries providing such services, we have removed the rights in EU legislation that member states had to provide these services. It is for the UK, not the EU, to decide on such matters.

A number of noble Lords, including my noble friend Lord Blencathra, mentioned maritime and cabotage. Maritime cabotage is not typically liberalised in trade agreements. This allows trade areas such as the EU, and other countries, to make their own provisions. The UK and the EU start from a position where UK legislation provides member states with cabotage rights. Some significant EU countries in terms of shipping—including the UK, Belgium, Ireland and the Netherlands—already have an open approach to cabotage by all countries. Other EU countries restrict cabotage by third countries. It is difficult to establish the precise figures for maritime cabotage, but we know that UK shipping companies undertake much more international business than cabotage business.

The UK will continue to engage globally on maritime transport, including through organisations such as the International Maritime Organization. While the nature of our relationship with the European Maritime Safety Agency—or EMSA—will change, we will continue to work with our European partners to ensure we maintain high levels of safety, security and environmental standards. We co-operate, for example, through the Paris memorandum of understanding, to share information on port inspections to target unsafe and polluting ships.

The Maritime and Coastguard Agency, the MCA, and the Marine Accident Investigation Branch, the MAIB, have put in place the necessary systems to replicate the systems previously provided by EMSA databases. In two cases, the systems have been operational since last year; the MCA stood down a third system, which is involved in the surveillance of the sea for oil pollution. The MCA has continued to use the EU

[Baroness Vere of Norbiton]
CleanSeaNet system during the transition period but is reprocuring the contingency solution for the end of the transition period.

Leaving the EU means that we have an opportunity to do things differently, whether or not that is a trigger for free ports, as pointed out by my noble friend Lady McIntosh. It is true that the Government have big plans for freeports. We plan to introduce up to 10 of them. A public consultation closed on 13 July. We will publish a full response in due course.

I turn to readiness and contingency planning. Over the next few months there will be a lot of that, particularly as the outcome of the negotiations is known. Many of the changes will depend on what happens in the negotiations, but many will need to take place anyway because we are leaving the single market and the customs union. As part of our preparations to date, we have published the border operating model, announced a new £50 million support package to boost the capacity of the customs intermediary sector, and committed to building new border facilities across Great Britain for carrying out customs checks. We are also undertaking an intense period of engagement across all sectors to improve readiness.

Many businesses will be developing the plans that they had already put in place for previous dates. However, we also recognise the impact that the pandemic will have had on their ability to plan. For that reason, the Government are taking a pragmatic and flexible approach to using some of our regained powers as a sovereign nation. By deciding to introduce new border controls in three stages up to 1 July 2021, industry benefits from extra time to adjust to the new procedures. Pragmatism will remain a hallmark of our policy development in the run-up to the end of the transition period on 31 December and beyond.

We have discussed traffic management in Kent many times over recent years and there are now well-established traffic management plans in place. These are currently being revised and we are working closely with the Kent Resilience Forum as we always do. We will draw on the previous planning for no deal, using a combination of on-road lorry holding in the M20 contraflow and off-road sites. We will, of course, need to incorporate changes to reflect the role of the new smart freight system, which I will come to in a second. In areas outside Kent, we continue to support the local resilience forums and each area likely to be affected is also reviewing its traffic management plans ahead of the end of the transition period.

On lorry parking specifically, the Government have committed to supporting ports and airports to put in place new or expanded border facilities in Great Britain for carrying out required checks, as well as providing targeted support to ports to build new infrastructure. Given the scale of infrastructure required and where there is a lack of space in ports, the Government are aiming to provide inland sites at strategic locations. A number of noble Lords had many questions about lorry parking, and I will write to them, as I have further details on planning and considerations for local communities.

I turn now to the smart freight service, which will be up and running for January 2021. To minimise any potential disruption, we are working with businesses and the haulage sector to ensure that it is effective and simple to use. In brief, we want and need traders and hauliers to be ready to travel, particularly at the short straits. This was noted by my noble friend Lord Lansley. I also note his comments on the trusted trader scheme. The SFS will simplify and automate the process of establishing the border readiness of a haulier, and it will be compulsory to cross at the short straits. Once a few details have been entered, the SFS will tell the driver that green means the driver is okay to travel; amber means the driver must go to an HMRC office of departure or a third party consignor; and red means that some or all documents are missing and the driver needs to go back, speak to the trader and get the missing documents. If the driver does not get a green light, they will not get a Kent access permit. That will mean that they should not be driving around Kent. If they are found driving around Kent, they will get a £300 fine.

On the island of Ireland, noted by the noble Baroness, Lady Ritchie, we fully recognise the importance of maritime links between Northern Ireland and Great Britain. During the pandemic, of course, we have been working closely with the Northern Ireland Executive to keep services running and continue the flow of goods. As also noted by the noble Baroness, the Enterprise train service between Belfast and Dublin is vital, and robust and effective arrangements are already fully in place to ensure that that service can continue.

I thank noble Lords for the exceptional quality of the debate today. I understand that we will probably go around this track again in the coming months, and I would be delighted to do so. I will, of course, write with further details on matters that I was unable to address today.

4.22 pm

Lord Whitty (Lab) [V]: My Lords, I very much welcome the detailed response given by the Minister and thank everybody who took part in this debate. However, the response still leaves a significant number of questions open, and I will just comment on two or three things.

The main problem is focused on road haulage. The noble Lord, Lord Bradshaw, rightly admonished me by saying that there were vitally important bits of the maritime sector which were, themselves, part of the system for road haulage, particularly in respect of the ro-ro arrangements at Dover. That is our biggest problem, although it is not our only problem, and I still do not think that we have had a clear indication for the industry. I appreciate, having been a Transport Minister myself, the Minister's reference to hauliers not lobbying subtly. That is certainly true, but sometimes that is understandable. They do not feel that they have yet got sufficient assurances that the outcome from the Government is actually going to be clear. I am not sure that the Minister is actually yet in a position to give them that assurance. I hope that she is right about the electronic system, which does, of course, require haulage companies to have prepared their drivers for it, as well

as the Government to have completed the testing of the system themselves. Normally, that is a familiarisation process that itself takes a significant amount of time, but it effectively has not started yet.

One problem of this report is that we were slightly more optimistic at that time than perhaps some of us are now. We thought it was highly probable that, by now, there would be a free trade agreement, which would mean that there were no tariffs. Clearly, if there are tariffs, that complicates matters considerably, and the amount of regulation and potential delay at ports increases significantly. We also thought—at least I did; I do not necessarily speak for everyone—that there would be quite quick side-agreements on transport matters, which are effectively technical matters on which we could have reached agreement. I appreciate that these discussions are still going on, and have gone on for some time, but that is not the reassurance that the haulage sector in particular requires. Of course, when I talk about the haulage sector, I would not disagree with the noble Lord, Lord Blencathra, that trade will adapt. Of course it will; there will be different patterns of trade. However, there is a cost to be absorbed here, and that cost will be faced not only by the haulage industry itself but also by consumers at the end of the line and by key parts of British manufacturing industry, which are part of an integrated European production line. There will be a serious knock-on effect of any failure to deliver effective systems for road haulage and related sectors.

I thank everybody who has taken part. I apologise to my noble friend Lady Ritchie for not spending more time discussing the island of Ireland. That is part of a bigger problem, which I am sure your Lordships' House will have to address shortly. The impact of Brexit on both Northern Ireland and the Republic of Ireland in terms of their trade systems will be an important dimension.

Other things are still not clear, from driving licences through to the way in which the railway system will treat passengers who come off on either side of the channel. We have not really talked much about passenger rights and experience, but that is another dimension on which the Government will have to seek some degree of clarity before we move into a new situation beyond 1 January.

I thank the Minister and, as I should have said earlier, thank her department for producing a detailed response very quickly, unlike some departments in respect of Brexit reports from the EU Select Committee. It takes the work of the Select Committees seriously, and I appreciate that the Minister has done so today. However, we are still short of some answers, and time is running out. In one form or another, the House, as well as the Government and the industry, will need to return to these issues. Meanwhile, I thank everybody who took part, particularly the Minister, for their contributions, and I beg to move.

Motion agreed.

Committee adjourned at 4.28 pm.