Vol. 806
No. 120

Monday
5 October 2020

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2020-10-05

In Hybrid sittings, [V] after a Member's name indicates that they contributed by video call.

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 5 October 2020

The House met in a hybrid proceeding.

1 pm

Prayers—read by the Lord Bishop of Rochester.

Arrangement of Business

Announcement

1.08 pm

The Lord Speaker (Lord Fowler): My Lords, your Lordships may have noticed a slight delay. It is because of, as they say, technical problems. At the moment, no words can be heard outside the House, which is a slight disadvantage. I will keep your Lordships posted.

1.15 pm

The Lord Speaker (Lord Fowler): My Lords, after careful consideration and consultation, rain has stopped play for the moment. What I suggest is that we have the introductions, and following them, look at the position on communications.

Introduction: Lord Moylan

1.16 pm

Daniel Michael Gerald Moylan, having been created Baron Moylan, of Kensington in the Royal London Borough of Kensington and Chelsea, was introduced and took the oath, supported by Lord St John of Bletso and Lord Borwick, and signed an undertaking to abide by the Code of Conduct.

Introduction: Lord Botham

1.21 pm

Sir Ian Terence Botham, OBE, having been created Baron Botham, of Ravensworth in the County of North Yorkshire, was introduced and took the oath, supported by Lord Judge and Lord Price, and signed an undertaking to abide by the Code of Conduct.

Lord Ashton of Hyde (Con): My Lords, we have another technical problem, as your Lordships know. We will have to adjourn for 15 minutes to see what happens.

1.26 pm

Sitting suspended.

Arrangement of Business

Announcement

1.40 pm

Lord Ashton of Hyde (Con): My Lords, I am sorry to say that the technical problem has not been fixed so we will have to adjourn again until 2 pm.

1.40 pm

Sitting suspended.

Business of the House

Timing of Debates

2 pm

Moved by ***Lord Ashton of Hyde***

Lord Ashton of Hyde (Con): My Lords, the plan is to adjourn now, and then have the deferred Divisions which we were all expecting at 2.15 pm. I propose that the Oral Questions and Private Notice Question be postponed until after the Report stage of the immigration Bill; I do not mean until after it is completed but that at a certain convenient moment we will adjourn the immigration Bill, have Oral Questions and the PNQ and then continue with the Bill. As I said, the plan is to have the deferred Divisions at 2.15 pm, as everyone was expecting.

I now move that Oral Questions and the Private Notice Question be postponed until after the Report stage of the Immigration and Social Security Co-ordination (EU Withdrawal) Bill.

Baroness McDonagh (Lab): Could the noble Lord give us an estimated time for Oral Questions?

Lord Ashton of Hyde (Con): No, I cannot, as I do not know how long the problem will take to fix. Obviously, if it is not fixed after the deferred Divisions are over, we will not be able to continue with the immigration Bill since we need the virtual participants to be able to hear. I will come back to your Lordships once I have been told the situation in respect of the technical difficulties. I hope that makes sense.

Baroness Hayter of Kentish Town (Lab): My Lords, I wonder whether it is worth leaving a little more latitude in the Chief Whip's hands so that at 2.15 pm he may know what time the Oral Questions will be. An enormous number of people will need to physically change their plans. Most people who are preparing for the Report stage of the immigration Bill know that it will be going on this afternoon—and, perhaps, this evening and for a long time. For the sake of those waiting for Oral Questions, I just wonder if we could give a little more leeway to the Chief Whip so that if at 2.15 pm he has a little more idea, we can notify the people preparing for Oral Questions.

Lord Ashton of Hyde (Con): That is a good idea. I will make sure that noble Lords have some warning of when Oral Questions will be. I shall certainly let Members know the timing as soon as possible. I commit to coming back to the House as soon as I know and, if necessary, making a statement about the timings of business, even if that means temporarily interrupting the business at hand. Basically, I will let noble Lords know as soon as I know.

Motion agreed.

2.04 pm

Sitting suspended.

Arrangement of Business

Announcement

2.15 pm

Lord Ashton of Hyde (Con): My Lords, I am glad to say that the technical issues have been resolved. The plan is to have the three deferred votes that we were expecting to have around 2.15 pm, as outlined on the Order Paper. We will have Oral Questions and the PNQ around 3 pm and then, we hope, continue with the Bill.

Immigration and Social Security Co-ordination (EU Withdrawal) Bill

Report (2nd Day)

2.16 pm

The Deputy Speaker (Baroness Finlay of Llandaff) (CB): As it was not possible to proceed with Divisions on this Bill on Wednesday, I will call the deferred Divisions on Amendments 3, 11 and 14, which were fully debated and pressed to a Division on Wednesday. No further speeches will be heard on these amendments.

2.17 pm

Division on Amendment 3

Contents 304; Not-Contents 224.

Amendment 3 agreed.

Division No. 1

CONTENTS

Aberdare, L.
Addington, L.
Adonis, L.
Alderdice, L.
Allan of Hallam, L.
Allen of Kensington, L.
Alli, L.
Alton of Liverpool, L.
Amos, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashton of Upholland, B.
Bach, L.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Beecham, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Berkeley, L.
Bhatia, L.
Blackstone, B.
Blower, B.
Blunkett, L.
Boateng, L.
Bowles of Berkhamsted, B.
Boycott, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Bristol, Bp.
Broers, L.
Brooke of Alverthorpe, L.
Brown of Eaton-under-Heywood, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Campbell of Pittenweem, L.
Campbell of Surbiton, B.
Campbell-Savours, L.
Canterbury, Abp.
Carlile of Berriew, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Clancarty, E.
Clark of Calton, B.
Clark of Kilwinning, B.
Clark of Windermere, L.
Clement-Jones, L.
Cohen of Pimlico, B.
Collins of Highbury, L.
Colville of Culross, V.
Cooper of Windrush, L.
Corston, B.
Cotter, L.
Coussins, B.
Craigavon, V.
Crawley, B.
Crisp, L.
Cromwell, L.
Cunningham of Felling, L.
Davidson of Glen Clova, L.
Davies of Oldham, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
D'Souza, B.
Dubs, L.
Durham, Bp.
Eames, L.
Eatwell, L.
Falkner of Margravine, B.
Faulkner of Worcester, L.
Filkin, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Freyberg, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Glasman, L.
Gloucester, Bp.
Goddard of Stockport, L.
Golding, B.
Goldsmith, L.
Goudie, B.
Greaves, L.
Green of Hurstpierpoint, L.
Grender, B.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hain, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Haskel, L.
Hastings of Scarisbrick, L.
Haworth, L.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hilton of Eggardon, B.
Hollick, L.
Hollins, B.
Hope of Craighead, L.
Howarth of Newport, L.
Hughes of Stretford, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hutton of Furness, L.
Hylton, L.
Janke, B.
Jolly, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Judd, L.
Judge, L.
Kakkar, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kerr of Kinlochard, L.
Kerslake, L.
Kidron, B.
Kilclooney, L.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Laming, L.
Lawrence of Clarendon, B.
Layard, L.
Lea of Crondall, L.
Leitch, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Loomba, L.
Low of Dalston, L.
Ludford, B.
Lytton, E.
Macdonald of River Glaven, L.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
Macpherson of Earl's Court, L.
Mair, L.
Mallalieu, B.
Mandelson, L.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Massey of Darwen, B.
Maxton, L.
McAvoy, L.
McConnell of Glenscorrodale, L.
McCrea of Magherafelt and Cookstown, L.
McDonagh, B.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Mendelsohn, L.
Monks, L.
Morgan of Huyton, B.
Morris of Yardley, B.
Murphy of Torfaen, L.
Neuberger, B.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parminter, B.
Patel of Bradford, L.
Patel, L.
Pendry, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Prescott, L.
Primarolo, B.
Prosser, B.

Purvis of Tweed, L.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Razzall, L.
Rebuck, B.
Rees of Ludlow, L.
Reid of Cardowan, L.
Rennard, L.
Ricketts, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Rochester, Bp.
Rooker, L.
Rosser, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Sandwich, E.
Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Soley, L.
Somerset, D.
Southwark, Bp.
St Albans, Bp.
Stair, E.
Stephen, L.
Stern of Brentford, L.
Stern, B.
Stevenson of Balmacara, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taverne, L.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurso, V.
Tonge, B.
Tope, L.
Touhig, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Turnberg, L.
Tyler of Enfield, B.
Tyler, L.
Uddin, B.
Vaux of Harrowden, L.
Verjee, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warwick of Undercliffe, B.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Waverley, V.
West of Spithead, L.
Wheatcroft, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wills, L.
Winston, L.
Wood of Anfield, L.
Woolf, L.
Wrigglesworth, L.
Young of Hornsey, B.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Baker of Dorking, L.
Balfe, L.
Bamford, L.
Barran, B.
Bates, L.
Berridge, B.
Bertin, B.
Bethell, L.
Black of Brentwood, L.
Blackwell, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brookeborough, V.
Brougham and Vaux, L.
Browne of Belmont, L.
Browning, B.
Brownlow of Shurlock Row, L.
Caine, L.
Caithness, E.
Callanan, L.
Carey of Clifton, L.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Cavendish of Little Venice, B.
Chartres, L.
Chisholm of Owlpen, B.
Choudrey, L.
Clarke of Nottingham, L.
Coe, L.
Colgrain, L.
Colwyn, L.
Cormack, L.
Courtown, E.
Couttie, B.
Crathorne, L.
Cumberlege, B.
Curry of Kirkharle, L.
Davies of Gower, L.
De Mauley, L.
Deech, B.
Dobbs, L.
Duncan of Springbank, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Fink, L.
Finn, B.
Flight, L.
Fookes, B.
Framlingham, L.
Freud, L.
Fullbrook, B.
Gadhia, L.
Gardiner of Kimble, L.
Geddes, L.
Gold, L.
Goldsmith of Richmond Park, L.
Goodlad, L.
Grade of Yarmouth, L.
Greenhalgh, L.
Greenway, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Houghton of Richmond, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Janvrin, L.
Jenkin of Kennington, B.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lansley, L.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Mackay of Clashfern, L.
Maginnis of Drumglass, L.
Mancroft, L.
Mann, L.
Manzoor, B.
Marlesford, L.
Maude of Horsham, L.
McColl of Dulwich, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
McLoughlin, L.
Meyer, B.
Mobarik, B.
Mone, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrissey, B.
Morrow, L.
Moylan, L.
Moynihan, L.
Naseby, L.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay , L.
Patten, L.
Pearson of Rannoch, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Price, L.
Randall of Uxbridge, L.
Ravensdale, L.
Rawlings, B.
Reay, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Rose of Monewden, L.
Rotherwick, L.
Rowe-Beddoe, L.
Saatchi, L.
Sanderson of Welton, B.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
St John of Bletso, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stirrup, L.
Stoddart of Swindon, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Stuart of Edgbaston, B.
Sugg, B.
Suri, L.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.

Wakeham, L.
Waldegrave of North Hill, L.
Walker of Aldringham, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Wilcox, B.
Williams of Trafford, B.
Wyld, B.
Young of Cookham, L.
Young of Graffham, L.
Younger of Leckie, V.

2.31 pm

Division conducted remotely on Amendment 11

Contents 312; Not-Contents 223.

Amendment 11 agreed.

Division No. 2

CONTENTS

Aberdare, L.
Addington, L.
Adonis, L.
Alderdice, L.
Allan of Hallam, L.
Allen of Kensington, L.
Alli, L.
Alton of Liverpool, L.
Amos, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashton of Upholland, B.
Astor, V.
Bach, L.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Berkeley, L.
Bhatia, L.
Bichard, L.
Blackstone, B.
Blackwell, L.
Blower, B.
Blunkett, L.
Boateng, L.
Boothroyd, B.
Bowles of Berkhamsted, B.
Bowness, L.
Boyce, L.
Boycott, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Bristol, Bp.
Broers, L.
Brooke of Alverthorpe, L.
Brookeborough, V.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Cameron of Dillington, L.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Canterbury, Abp.
Carlisle, Bp.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chartres, L.
Clancarty, E.
Clark of Calton, B.
Clark of Kilwinning, B.
Clark of Windermere, L.
Clement-Jones, L.
Cohen of Pimlico, B.
Collins of Highbury, L.
Colville of Culross, V.
Corston, B.
Cotter, L.
Coussins, B.
Cox, B.
Craig of Radley, L.
Craigavon, V.
Crawley, B.
Cunningham of Felling, L.
Curry of Kirkharle, L.
Davidson of Glen Clova, L.
Davies of Oldham, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
D'Souza, B.
Dubs, L.
Durham, Bp.
Eames, L.
Eatwell, L.
Elder, L.
Erroll, E.
Faulkner of Worcester, L.
Featherstone, B.
Filkin, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Freyberg, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Goddard of Stockport, L.
Golding, B.
Goldsmith, L.
Goudie, B.
Greaves, L.
Greenway, L.
Grender, B.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hain, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Haskel, L.
Hastings of Scarisbrick, L.
Haworth, L.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hennessy of Nympsfield, L.
Hilton of Eggardon, B.
Hollick, L.
Hollins, B.
Hope of Craighead, L.
Howarth of Newport, L.
Hoyle, L.
Hughes of Stretford, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hutton of Furness, L.
Hylton, L.
Janke, B.
Janvrin, L.
Jolly, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kerr of Kinlochard, L.
Kerslake, L.
Kestenbaum, L.
Kidron, B.
Kingsmill, B.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Laming, L.
Lane-Fox of Soho, B.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Low of Dalston, L.
Ludford, B.
Lytton, E.
MacKenzie of Culkein, L.
Macpherson of Earl's Court, L.
Mallalieu, B.
Mandelson, L.
Mann, L.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Maxton, L.
McAvoy, L.
McConnell of Glenscorrodale, L.
McDonagh, B.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Mendelsohn, L.
Mitchell, L.
Monks, L.
Morgan of Drefelin, B.
Morris of Aberavon, L.
Murphy of Torfaen, L.
Murphy, B.
Neuberger, B.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
O'Loan, B.
O'Neill of Bengarve, B.
Osamor, B.
Oxford, Bp.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parminter, B.
Patel of Bradford, L.
Pendry, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Powell of Bayswater, L.
Prashar, B.
Prescott, L.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rees of Ludlow, L.
Reid of Cardowan, L.
Rennard, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Rooker, L.
Rosser, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Sandwich, E.
Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Snape, L.
Soley, L.
Somerset, D.
Southwark, Bp.
St Albans, Bp.
St John of Bletso, L.
Stephen, L.
Stern, B.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taverne, L.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Teverson, L.

Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurso, V.
Tonge, B.
Tope, L.
Touhig, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Turnberg, L.
Tyler of Enfield, B.
Tyler, L.
Uddin, B.
Vaux of Harrowden, L.
Verjee, L.
Walker of Aldringham, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warwick of Undercliffe, B.
Wasserman, L.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watts, L.
Waverley, V.
Wellington, D.
West of Spithead, L.
Wheatcroft, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wills, L.
Wilson of Dinton, L.
Winston, L.
Wood of Anfield, L.
Young of Hornsey, B.
Young of Old Scone, B.

NOT CONTENTS

Adebowale, L.
Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Baker of Dorking, L.
Balfe, L.
Barran, B.
Bates, L.
Berridge, B.
Bertin, B.
Bethell, L.
Black of Brentwood, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Brougham and Vaux, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Browning, B.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Cavendish of Furness, L.
Cavendish of Little Venice, B.
Chisholm of Owlpen, B.
Choudrey, L.
Clarke of Nottingham, L.
Coe, L.
Colgrain, L.
Colwyn, L.
Cormack, L.
Courtown, E.
Couttie, B.
Crathorne, L.
Crisp, L.
Davies of Gower, L.
De Mauley, L.
Deech, B.
Deighton, L.
Dobbs, L.
Duncan of Springbank, L.
Dunlop, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Fink, L.
Finkelstein, L.
Finn, B.
Fookes, B.
Forsyth of Drumlean, L.
Framlingham, L.
Fraser of Corriegarth, L.
Freud, L.
Fullbrook, B.
Gadhia, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Geddes, L.
Gilbert of Panteg, L.
Gold, L.
Goldsmith of Richmond Park, L.
Goodlad, L.
Grade of Yarmouth, L.
Green of Deddington, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Kakkar, L.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lansley, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lothian, M.
Lucas, L.
Lupton, L.
Mackay of Clashfern, L.
Maginnis of Drumglass, L.
Mancroft, L.
Manzoor, B.
Marland, L.
Marlesford, L.
Maude of Horsham, L.
McColl of Dulwich, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
McLoughlin, L.
Meyer, B.
Mobarik, B.
Mone, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrissey, B.
Moylan, L.
Moynihan, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay , L.
Patel, L.
Patten, L.
Pearson of Rannoch, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Randall of Uxbridge, L.
Rawlings, B.
Reay, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Rose of Monewden, L.
Rotherwick, L.
Rowe-Beddoe, L.
Saatchi, L.
Sanderson of Welton, B.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
Smith of Kelvin, L.
Stedman-Scott, B.
Stirrup, L.
Strathclyde, L.
Stroud, B.
Stuart of Edgbaston, B.
Sugg, B.
Suri, L.
Swinfen, L.
Taylor of Holbeach, L.
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Ullswater, V.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Wakeham, L.
Warsi, B.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Wilcox, B.
Williams of Trafford, B.
Wyld, B.
Young of Cookham, L.
Young of Graffham, L.
Younger of Leckie, V.

2.43 pm

Division conducted remotely on Amendment 14

Contents 323; Not-Contents 227.

Amendment 14 agreed.

Division No. 3

CONTENTS

Aberdare, L.
Addington, L.
Adonis, L.
Alderdice, L.
Allan of Hallam, L.
Allen of Kensington, L.
Alli, L.
Alton of Liverpool, L.
Amos, B.
Anderson of Ipswich, L.

Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashton of Upholland, B.
Bach, L.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beecham, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Berkeley, L.
Best, L.
Bhatia, L.
Bichard, L.
Blackstone, B.
Blower, B.
Blunkett, L.
Boateng, L.
Boothroyd, B.
Bowles of Berkhamsted, B.
Bowness, L.
Boycott, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Bristol, Bp.
Broers, L.
Brookeborough, V.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Canterbury, Abp.
Carlile of Berriew, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Clancarty, E.
Clark of Calton, B.
Clark of Kilwinning, B.
Clark of Windermere, L.
Clement-Jones, L.
Cohen of Pimlico, B.
Collins of Highbury, L.
Corston, B.
Coussins, B.
Cox, B.
Craig of Radley, L.
Crawley, B.
Crisp, L.
Cunningham of Felling, L.
Davies of Oldham, L.
Deben, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
D'Souza, B.
Dubs, L.
Durham, Bp.
Eames, L.
Eatwell, L.
Elder, L.
Erroll, E.
Falkner of Margravine, B.
Faulkner of Worcester, L.
Featherstone, B.
Filkin, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Glasman, L.
Gloucester, Bp.
Goddard of Stockport, L.
Golding, B.
Goldsmith, L.
Goudie, B.
Grantchester, L.
Greaves, L.
Green of Hurstpierpoint, L.
Greengross, B.
Greenway, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hain, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Haskel, L.
Hastings of Scarisbrick, L.
Haworth, L.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hennessy of Nympsfield, L.
Hilton of Eggardon, B.
Hollick, L.
Hollins, B.
Hope of Craighead, L.
Howarth of Newport, L.
Hoyle, L.
Hughes of Stretford, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hutton of Furness, L.
Hylton, L.
Inglewood, L.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kerr of Kinlochard, L.
Kerslake, L.
Kidron, B.
Kilclooney, L.
Kingsmill, B.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Lane-Fox of Soho, B.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Leeds, Bp.
Leitch, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Loomba, L.
Low of Dalston, L.
Ludford, B.
Lytton, E.
Macdonald of River Glaven, L.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
Macpherson of Earl's Court, L.
Mair, L.
Mallalieu, B.
Mandelson, L.
Mann, L.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Massey of Darwen, B.
Maxton, L.
McAvoy, L.
McCrea of Magherafelt and Cookstown, L.
McDonagh, B.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Mendelsohn, L.
Monks, L.
Morgan of Drefelin, B.
Morgan of Huyton, B.
Morris of Aberavon, L.
Morrow, L.
Murphy of Torfaen, L.
Murphy, B.
Neuberger, B.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
O'Loan, B.
O'Neill of Bengarve, B.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parminter, B.
Patel, L.
Pendry, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Prescott, L.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Radice, L.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randall of Uxbridge, L.
Randerson, B.
Ravensdale, L.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rees of Ludlow, L.
Reid of Cardowan, L.
Rennard, L.
Ricketts, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Rooker, L.
Rosser, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Sandwich, E.
Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Snape, L.
Soley, L.
Somerset, D.
Southwark, Bp.
St Albans, Bp.
Stair, E.
Stephen, L.
Stern of Brentford, L.
Stern, B.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Taverne, L.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Teverson, L.
Thomas of Cwmgiedd, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurso, V.
Tonge, B.
Tope, L.
Touhig, L.
Trevethin and Oaksey, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Turnberg, L.
Tyler of Enfield, B.
Tyler, L.
Uddin, B.
Vaux of Harrowden, L.
Verjee, L.
Walker of Aldringham, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Walney, L.
Warsi, B.
Warwick of Undercliffe, B.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watts, L.
Waverley, V.
Wellington, D.
West of Spithead, L.
Wheatcroft, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.

Wills, L.
Wolf of Dulwich, B.
Wood of Anfield, L.
Woolf, L.
Wrigglesworth, L.
Young of Hornsey, B.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Astor, V.
Baker of Dorking, L.
Balfe, L.
Bamford, L.
Barran, B.
Bates, L.
Berridge, B.
Bethell, L.
Black of Brentwood, L.
Blackwell, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Brabazon of Tara, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Browning, B.
Brownlow of Shurlock Row, L.
Caine, L.
Caithness, E.
Callanan, L.
Cameron of Dillington, L.
Carey of Clifton, L.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Cavendish of Furness, L.
Cavendish of Little Venice, B.
Chartres, L.
Chisholm of Owlpen, B.
Choudrey, L.
Clarke of Nottingham, L.
Coe, L.
Colgrain, L.
Colwyn, L.
Cormack, L.
Courtown, E.
Couttie, B.
Craigavon, V.
Crathorne, L.
Cumberlege, B.
Curry of Kirkharle, L.
Davies of Gower, L.
De Mauley, L.
Deech, B.
Deighton, L.
Dobbs, L.
Duncan of Springbank, L.
Dunlop, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Fink, L.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Framlingham, L.
Fraser of Corriegarth, L.
Freud, L.
Fullbrook, B.
Gadhia, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Garnier, L.
Geddes, L.
Gilbert of Panteg, L.
Gold, L.
Goldsmith of Richmond Park, L.
Goodlad, L.
Grade of Yarmouth, L.
Green of Deddington, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Haselhurst, L.
Hayward, L.
Helic, B.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Kakkar, L.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Laming, L.
Lamont of Lerwick, L.
Lansley, L.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lothian, M.
Lucas, L.
Lupton, L.
Mackay of Clashfern, L.
Maginnis of Drumglass, L.
Mancroft, L.
Manzoor, B.
Marland, L.
Marlesford, L.
Maude of Horsham, L.
McColl of Dulwich, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McLoughlin, L.
Meyer, B.
Mobarik, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrissey, B.
Moylan, L.
Moynihan, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay , L.
Patten, L.
Pearson of Rannoch, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Price, L.
Rana, L.
Ranger, L.
Reay, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Rose of Monewden, L.
Rotherwick, L.
Saatchi, L.
Sanderson of Welton, B.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
Smith of Kelvin, L.
St John of Bletso, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stirrup, L.
Strathclyde, L.
Stroud, B.
Stuart of Edgbaston, B.
Sugg, B.
Suri, L.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Vinson, L.
Wakeham, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Wilcox, B.
Williams of Trafford, B.
Wyld, B.
Young of Cookham, L.
Young of Graffham, L.
Younger of Leckie, V.

2.56 pm

Sitting suspended.

Arrangement of Business

Announcement

3.01 pm

The Lord Speaker (Lord Fowler): My Lords, as I was saying, Oral Questions will now commence. Please can those asking supplementary questions keep them short and confined to two points? I also ask that Ministers' replies are brief.

Covid-19: Adult Social Care Complaints

Question

3.01 pm

Asked by ***Baroness Greengross***

To ask Her Majesty's Government, following the suspension of all casework by the Local Government and Social Care Ombudsman between 26 March and 29 June due to the COVID-19 pandemic, what steps they have taken to ensure that complaints made during

[Baroness Greengross]
that period were handled in line with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009; and what steps they are now taking to ensure that complaints about adult social care are handled appropriately.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, it is essential that people can voice concerns about their care and have complaints properly investigated. The ombudsman is a vital part of that process. The ombudsman temporarily suspended its usual procedures to protect front-line services. It has now fully reopened and is working through complaints received during that pause. No one has lost their access to justice because of the pandemic and usual time limits on complaints have been eased to allow for this.

Baroness Greengross (CB): My Lords, I thank the Minister for his reply. Can the Government confirm that they still intend to introduce a statutory appeal system for adult social care, as originally planned for in April 2020? If so, do they intend to reopen consultation on that process, given that this was last undertaken more than five years ago, and no response was published?

Lord Bethell (Con): The noble Baroness is entirely right that in April 2016 we committed, in fact sheets about the Care Act, to introduce an appeals process. That is still on the horizon, but this is best placed as an overall reform of the social care system that puts it on a sustainable footing where everyone is treated with dignity and respect. We have, therefore, delayed the implementation of this appeal system until we can make it part of a larger commitment to reforming social care.

Baroness Altmann (Con): My Lords, I urge my noble friend to encourage his department to come forward with its plans for social care reform as soon as possible. How many complaints relating to Covid has the Local Government and Social Care Ombudsman received since it reopened on 29 June?

Lord Bethell (Con): Last week, the Local Government and Social Care Ombudsman indicated that it had had around 100 Covid-related complaints. The department is closely monitoring the situation, including through our normal safeguarding networks. The ombudsman has confirmed that the current level of complaints is no higher than normal. We will be making sure that there is no backlog that ticks up this number.

Lord Loomba (CB) [V]: My Lords, with families now reluctant to send their loved ones into care and opting to look after them themselves, what measures are the Government taking to support the sector and ensure that existing residents are not traumatised by being forced to move home due to financial pressures forcing the closure of their current care homes?

Lord Bethell (Con): No one should be under any pressure, financial or otherwise, to move unless they are absolutely determined to. I emphasise that anyone who has a complaint should complain either to the ombudsman or through the CQC and Healthwatch system. To encourage knowledge of and access to that complaints procedure, we have launched the "Because we all care" campaign, which is encouraging people to use the NHS and social care feedback systems in a way that captures the learnings from Covid during this difficult time.

Baroness Hayter of Kentish Town (Lab): My Lords, given the close relationship between social care and the health service, the Government initially agreed that they would combine the two ombudsmen—the PHSO and the one for local government and social care. That is desired by both ombudsmen. We have had a consultation and we have had the Bill, but we heard, on 9 September, that there are no plans in government to proceed with that merger. Will the Minister explain how on earth that can be in the interests of consumers, be they patients or clients?

Lord Bethell (Con): The noble Baroness is entirely right. There are very good arguments for combining the two ombudsmen and that is recognised by both of them. However, the framework and structure for that kind of reform is best conducted when there is an overall reform of social care. The Government made it crystal clear during the election that they are committed to a major and significant overhaul of the social care system. That has been reiterated by the Prime Minister and the Secretary of State for Health and Social Care. When it happens, we will review the combination of those two ombudsmen, as the noble Baroness described.

The Lord Speaker (Lord Fowler): Baroness Warsi? We will move on to the noble Baroness, Lady Thornton.

Baroness Thornton (Lab) [V]: My Lords, given the pattern and themes of complaints emerging during Covid, what will the role of the Health and Social Care Ombudsman be in the forthcoming inquiry into the pandemic? Will the Minister give a guarantee of full involvement of that ombudsman, given the evidence it can bring to the table?

Lord Bethell (Con): My Lords, the nature of any future inquiry has not yet been defined. However, all parties will be taking learnings from Covid and bringing forward their lessons-learned experience. As the major regulator, the CQC will play a leading role in bringing together the data and information from the front line but, as the complainant of last resort, the ombudsman will also play an important role in that process by bringing insight from patients and those who have made complaints.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, as the noble Lord, Lord Loomba, indicated, in the context of Covid many families and patients will be looking to stay at home and receive private care there, for longer than they might have. The Minister referred to the "Because we all care" publicity campaign about the ombudsman and its services. However, the annual review of adult social care complaints called for mandatory signposting. Will the Government be introducing mandatory arrangements and rules to be followed by all private providers to ensure that the

services of the ombudsman are signposted to people who may need them—not just a publicity campaign but clear direction and information being provided to everyone who might need it?

Lord Bethell (Con): My Lords, I recognise that the ombudsman's recent report on adult social care did call for a statutory requirement for signposting. We have worked substantially with the sector to improve signposting of the ombudsman and other routes of complaint. The commitment by CQC and Healthwatch to the "Because we all care" campaign is an important and effective measure to fill the gap and raise awareness of the complaints procedure. It is right to wait until we see the results of that campaign. We acknowledge the possibility of mandatory signposting but would like to see a voluntary and more effective marketing campaign work if it possibly can.

The Lord Speaker (Lord Fowler): My Lords, all supplementary questions have been asked. We now move to the second Oral Question.

Covid-19: People with Learning Difficulties and Autism

Question

3.09 pm

Asked by ***Baroness Bakewell***

To ask Her Majesty's Government what provisions they have put in place to meet the needs of those with learning difficulties and autism during the COVID-19 pandemic.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, we recognise that the pandemic presents serious risks and challenges for people with a learning disability and autistic people. That is why we have increased provision of PPE and testing in social care, we have enabled access to NHS volunteer responder schemes and we have developed tailored guidance informed by stakeholders. We have made reasonable adjustments to policies and funded charities with more than £1 million to provide support. The winter plan outlines work to protect all areas of people who need care.

Baroness Bakewell (Lab) [V]: My Lords, I thank the Minister for that Answer. He will appreciate that, as he said, people suffering from learning difficulties have particular problems when isolated by the pandemic—terrible loneliness, depression and challenging behaviour. Their families and many agencies, such as Mencap, the National Autistic Society and Care England, feel that government oversight and greater enforcement of existing provisions are needed. Will the Minister draw attention to the urgency of this need?

Lord Bethell (Con): My Lords, the noble Baroness puts it extremely well, and it is an area we are deeply concerned about. We have commissioned Public Health England to carry out an analysis of the existing data on those who have suffered under Covid. We will be reviewing that data extremely carefully to understand the phenomenon more deeply. In the meantime, the Chancellor has announced £750 million to support the charity sector in response to the pandemic. Some of that money has been targeted specifically at charities that are supporting those with learning difficulties to ensure that they get the support that they need.

Baroness Warwick of Undercliffe (Lab): My Lords, many families really struggled to get effective support or even to know where to go to find out what is available. I understand that evidence gathered by concerned charities like Carers UK and Carers Trust shows that many family carers have had no effective support or advice since the end of March, yet they look after some of the most vulnerable in our society. Will the Minister and his colleagues at the Department of Health and Social Care meet with these organisations to discuss what could be done to improve this very sad state of affairs?

Lord Bethell (Con): My Lords, I would like to pay tribute to the work of the learning disability and autism advisory group for its social care task force. Its recommendations have informed the development of the social care winter plan, which provides specific provisions for those with learning disabilities and autism. I would be very glad to meet whichever groups the noble Baroness recommends, because this is an important issue that we care about immensely and are determined to get right.

Lord Wigley (PC) [V]: My Lords, I draw attention to my registered interest as a vice-president of Mencap. Does the Minister recognise the challenges facing many parent carers of people with a learning disability who are older people, who often themselves are having to shield during lockdown? What are the Government doing specifically to ensure such households have the support they need as we enter the second wave of Covid this autumn?

Lord Bethell (Con): My Lords, the role of any carer is one that we should applaud and pay tribute to, for they are often the overlooked supporters of those with learning difficulties and autism. The plight of those families during Covid has been very hard, and we recognise the tough challenges faced by older parents in particular, who have big responsibilities for children with learning difficulties. The main support will be through local government, and we have put through a huge amount of finance to local authorities and charities to support those families. The adult winter plan has £500 million for the infection control fund, and the NHS has £588 million to support those who are moving from one part of care to another. We will continue this financial support in this area.

Lord Astor of Hever (Con) [V]: My Lords, I declare an interest as the father of an autistic daughter. Can the Minister say when clear guidance will be provided to day centres for the disabled, and when we can expect they will reopen?

Lord Bethell (Con): My Lords, the guidance for day centres in particular is not something I know the specific date for, but I would be glad to take my noble friend's question back to the department and seek a date, as he asks. We all wish for day centres to be open, but keeping infection control in day centres for those with learning disabilities and autism is extremely challenging, and our primary concern is the safety and protection of children. Therefore, we have to weigh those considerations with the natural pastoral concerns and the contribution of day centres to the care of children.

Baroness Walmsley (LD) [V]: My Lords, the lockdown has led to distress for many autistic children due to different routines and limited social interaction outside the family. Many have found returning to school difficult. The National Autistic Society has recommended that schools provide all autistic children with a personalised transition plan to help with their return to school. Has this been happening?

Lord Bethell (Con): The noble Baroness puts the plight of those with autism extremely well. Who could not feel sympathy for those with special needs and autistic sensibilities, with the distress and trauma of changes and the unfamiliarity of the Covid regime? I do not know the precise status of a personal plan for all those transitioning back to school, but I would be glad to inquire back at the department and write to the noble Baroness with a reply.

Baroness Stroud (Con) [V]: My Lords, prior to the pandemic, the Social Metrics Commission's report found that half of all people in poverty live in a family that includes a disabled adult or child. Given that education is one of the key drivers to transitioning out of poverty, could my noble friend outline the work he has been doing with the Department for Education and the Department of Health to address the skills and education gap created by Covid for disabled children who have special educational needs and to ensure that these children's needs are the focus of any pandemic measures in the coming months?

Lord Bethell (Con): My noble friend Lady Stroud speaks very movingly of the tough figures around the prevalence of disability among those in poverty. I completely take on board her recommendations about training in education. The Prime Minister spoke last week about the opportunity that Covid presents for a reboot around skills. That reboot will include provisions for those with learning difficulties and disabilities. I would be glad to inquire at the department exactly how developed those plans are and to update the noble Baroness with the information that I have back at the department.

Baroness Hollins (CB) [V]: My Lords, a ministerial response in the other place last week stated that only some supported living settings would be able to access asymptomatic testing. People with learning disabilities have had excess death rates higher than over-65 year-old care home residents, and many live in supported living settings. When do the Government intend to extend regular asymptomatic testing to all supported living settings, where the majority are still effectively shielding, and thus perhaps also enable day centres to open?

Lord Bethell (Con): We are seeking to extend asymptomatic testing as widely as we possibly can and as soon as we possibly can. At the moment, our focus for testing is on residential social care, where we have committed to 100,000 tests a day. That is where the greatest threat comes from. But as the number and range of tests increase, we hope to be able to roll out asymptomatic testing to a much broader set of user cases, and the kind of care centres that she describes will surely be near the top of the list.

Baroness Thornton (Lab) [V]: My Lords, figures from the CQC show that there has been a 175% increase in unexpected deaths among learning disabled and autistic people during the pandemic. The Cabinet Office's disability unit, which is charged with developing the national strategy for disabled people, has been silent so far. Does the Minister agree that, rather than Covid-19 necessitating delays for a national disability strategy, the impact of the crisis on disabled people makes its publication all the more vital? When will the national disability strategy be published?

Lord Bethell (Con): My Lords, let me clarify with an update on the numbers. As of 25 September 2020, 690 deaths from Covid of people with learning disabilities have been reported to the leader programme since 16 March. We have commissioned Public Health England to carry out additional analysis of the existing data, which will be published as soon as it is completed. We are not trying to hide from this issue. Covid has raised very serious questions about the impact of a pandemic on those with learning difficulties, who are often more susceptible to disease and mortality than others. We absolutely accept the challenge of figuring out how to protect the most vulnerable in our society. Therefore, we will embrace the opportunity to take these learnings and put them into a disability report at some point in the future.

The Lord Speaker (Lord Fowler): My Lords, I regret that the time allowed for this Question has elapsed.

Covid-19: School Students Learning From Home

Question

3.21 pm

Asked by ***Baroness McDonagh***

To ask Her Majesty's Government what assessment they have made of the impact on primary and secondary school students' ability to learn for those students (1) who have digital connectivity, and (2) who do not have such connectivity, when learning from home due to the COVID-19 pandemic.

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, the Government have already invested over £100 million to support remote education, including 250,000 additional devices for children who cannot attend school or if their

school is closed. Understanding the impact of Covid disruption on attainment and progress is a key research priority for the Government. We have commissioned an independent research and assessment agency to consider catch-up needs and monitor progress over the year.

Baroness McDonagh (Lab): I thank the Minister for that Answer. The department needs to do more. Before the Covid outbreak, we had heard already this year from the Education Policy Institute that young people on free school meals were leaving our schools 18 months behind other young people. For the first time in a decade, we saw the widening gap among primary school children between those from poor families and those from wealthy families. We know from the Government-appointed Children's Commissioner that 50% of secondary school children and 60% of primary children had no access to online education. It just seems too little. Can the Minister give us more information about the assessment, research and dates, and how attainment will be measured?

Baroness Berridge (Con): My Lords, I am grateful for the mention of the EPI, because it will do the data analysis. Renaissance Learning has won the contract, which is, as I am sure the noble Baroness is aware, an assessment platform that schools already use, so there is baseline data; we are not in the process of putting an additional burden on schools—as they use the platform, they will monitor that. The EPI will analyse the data that we get from this. We know it is important to know as much as possible about how children have fallen behind and how they are progressing to catch up.

The Lord Bishop of Oxford [V]: My Lords, I thank the Minister for her Answer and for what the Government have already done. Before the pandemic, 23% of children in socioeconomic groups D and E lacked home broadband and access to laptops, et cetera. Does the Minister agree that we now need to measure data poverty and its effects more carefully? Will the Government commit to legislating for household digital access to be treated as a utility on an equal footing with the right to access for water and heat—a change supported by the general public?

Baroness Berridge (Con): My Lords, the right reverend Prelate is correct that access to a computer at home is essential for children's learning. On laptop and device provision, 470,000 devices are now being made available to disadvantaged children. They will be distributed by local authorities and academy trusts. Alongside that, we have provided 4G routers for children who do not have access, and there has been work with BT to ensure access for 10,000 disadvantaged families where they are relying on the mobile phone network to get broadband. There is now a universal service obligation under broadband of 10 megabytes per second.

Lord Baker of Dorking (Con) [V]: When schools are disrupted or closed by Covid, the Government's policy is that remote education will be provided immediately. That is impractical and virtually impossible. Last week in Hastings, the most deprived coastal town in the south of England, an academy had to close suddenly; 1,000 students and many others did not attend for 10 days. In Hove, 11 teachers could not turn up—education disrupted. In Kent, nine teachers could not turn up—education disrupted. How can disadvantaged children possibly catch up on four months of lost education and new stuff in the remaining 29 weeks before GCSEs next summer? I beg the department to have a plan B alongside the possibility of GCSEs, involving moderated teacher assessment and possibly assisted by internal mock exams which could measure student absence against learning. If it does not do this, hundreds of thousands of disadvantaged students will be treated unfairly.

Baroness Berridge (Con): My Lords, the noble Lord will be aware that next year's exams were the subject of a consultation by Ofqual; we will have an announcement on that shortly. On support for remote education, which includes online and offline, last week we opened a new central hub on remote education to assist teachers. Some 2,800 schools have accessed the new teacher resource on the Oak National Academy, which the department funded. Many schools—I pay tribute to them on World Teachers' Day—are doing a great job on standing up remote education as soon as they can.

The Lord Speaker (Lord Fowler): My Lords, this is an important subject, but I ask Members to please keep their supplementaries short. I call the noble Earl, Lord Clancarty.

The Earl of Clancarty (CB): My Lords, although the share of households with internet access in the UK is now at 93%, we hear too many stories of real concern about sharing devices and lack of computers, even with connectivity. Under what precise conditions are the Government currently supplying computers to the neediest? Should they not now pledge a dedicated school computer for every child, particularly considering that any child or whole class may at a moment's notice have to switch to online learning?

Baroness Berridge (Con): The Government are distributing these laptops to the most disadvantaged students. This batch will be delivered to disadvantaged children in years 3 to 11, to any child shielding and to any child in a hospital school or a further education college doing key stage 4. We rely on local authorities and schools to know who those disadvantaged children are; free school meals are a measure, but they know who the disadvantaged children are, and we must rely on them to distribute to those in need.

Lord Harris of Haringey (Lab): My Lords, we are four weeks into the current term, yet the Government are talking about delivering this equipment and the remote routers. Can the Minister tell us what proportion of local authorities and schools, many of which are reporting that the equipment promised was late in arriving and insufficient for the number of children needing it, have queried their allocation since the start of the current term? Of those allocations, what proportion has actually been received by schools? Can she assure us that this will not be allocated by algorithm?

Baroness Berridge (Con): My Lords, the 220,000 devices delivered last term were all delivered at speed. At points, we were delivering thousands of laptops within 24 hours. The expectation is that this term, when schools and local authorities put in their order, they will receive the devices within 48 hours. I will reply by way of a letter to the noble Lord's more precise questions.

The Lord Speaker (Lord Fowler): I call the noble Lord, Lord Storey. Is there no Lord Storey? I call the noble Lord, Lord Pickles.

Lord Pickles (Con) [V]: My Lords, does my noble friend agree that the last 10 years have seen an increase in social mobility and that Covid-19 isolations threaten our progress? To be without digital connection puts a pupil at great disadvantage. However, I was forcefully reminded by a recent meeting with students that, even with good digital connections, technology is not a cure-all. There is no substitute for classroom teaching and face-to-face tuition. Does this not reinforce the necessity of keeping schools open to offer the best choice in life for pupils?

Baroness Berridge (Con): My Lords, I could not agree more with the noble Lord that face-to-face tuition is, of course, the best for students. I am pleased to say that, as of 24 September, 88% of children were in school, so that is a remarkable feat. In relation to social mobility, that is why we have aimed £350 million, through a national tutoring programme, at the most disadvantaged to help them catch up.

Lord Watson of Invergowrie (Lab): My Lords, as my noble friend Lady McDonagh said, the coronavirus lockdown exposed the digital divide in education, with around three-quarters of a million disadvantaged young people missing schoolwork due to a lack of a computer or internet access at home. The Government's announcement last week of 100,000 more laptops, welcome though it is, in that situation is really quite inadequate. Yet, seemingly oblivious to that point, last week the Government also announced that schools and colleges were to be given a new legal duty to provide online education to students at home on the same basis as in the classroom. Can the Minister say whether sanctions will be brought to bear on schools unable to fully deliver online education, even where that is as a result of the Government failing to provide adequate connectivity to students?

Baroness Berridge (Con): My Lords, the direction is to provide remote education, and the announcement was a further 250,000 laptops, so 470,000 laptops have been delivered. It was to give certainty and assurance to parents in relation to the provision of remote education; a lot has been provided but sometimes it has not been consistent. There will obviously be supportive conversations to help schools deliver. We have also given thousands of schools the source of the platforms that they need and the training, through demonstrator schools, to enable them to do this, but there will be a supportive conversation if they are not meeting the requirements of the direction.

The Lord Speaker (Lord Fowler): My Lords, I regret to say that the time allowed for this Question has elapsed; I apologise to the three Members unable to ask their questions.

Covid-19: Aviation Sector

Question

3.32 pm

Asked by ***Baroness McIntosh of Pickering***

To ask Her Majesty's Government what assessment they have made of the impact of quarantine provisions to address the COVID-19 pandemic on civil aviation; and what measures they plan to take to support the aviation sector.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, we introduced the right measures at the right time based on scientific evidence. This included early implementation of enhanced monitoring at the UK border to identify symptomatic travellers from high-risk areas and the introduction of international travel corridors in July. The Government have provided an unprecedented package of financial assistance measures that the aviation sector can draw on, which we keep under review.

Baroness McIntosh of Pickering (Con): My Lords, the aviation sector has taken an enormous hit, and there has been a huge drop of confidence in consumer travel. There have been endless discussions between the aviation sector and the Government on introducing testing. Will my noble friend repeat the announcement that the Treasury Chief Secretary made at party conference virtually today that we will introduce testing in very short order, and that there will be one test on landing—on arrival—at an airport and a follow-up test five days later? Nothing short of that will actually boost confidence and allow airlines to really take off again this autumn.

Baroness Vere of Norbiton (Con): I reassure my noble friend that the Government are taking this issue extremely seriously. We are looking at all potential measures to reduce the length of the quarantine period. A test taken after an appropriate isolation period may be a suitable solution, and at the moment we are actively working through the practicalities and the technicalities to make sure that the solution works.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, will the Minister confirm that 30 other countries have introduced effective testing at airports, while our Government have struggled and failed? Taken together with thousands of elderly people dying needlessly in care homes and the massive failure of test and trace, does this not point to serial incompetence by this Government?

Baroness Vere of Norbiton (Con): I hate to disappoint the noble Lord, but various countries have taken different approaches to testing on arrival. Indeed, many countries do no testing at all on arrival from other countries. However, the Government look very carefully at what other countries are doing; where it is appropriate and where there is evidence to support the measures that they are taking, we look carefully at introducing them here.

Baroness Randerson (LD): My Lords, airports are vital local employers and under severe pressure. Unlike airlines, they cannot just shut down services and have to remain operational for safety reasons, but they have very few paying customers and commercial flights. I ask the Minister again: will the Government just get on with it? Will they give them tailored support by cancelling business rates, which cost even small airports millions of pounds a year?

Baroness Vere of Norbiton (Con): My Lords, the Chancellor recently announced the winter economic plan, which included extensions or adjustments to support for the sector which is already in place, so the Job Support Scheme comes online on 1 November and there is extension to the loan schemes. There are plenty of ways that airports can get support, and in the very final instance they could look at the Birch process but, of course, in those circumstances all other potential sources of finance must have been exhausted.

Lord Balfe (Con): My Lords, I draw attention to my entry in the register. Bearing in mind the need to keep the pool of pilots currently being made redundant available for the future upturn, and bearing in mind the need for their qualifications to remain current, could the Minister tell me whether discussions her department has been having with interested parties are likely to include a sympathetic view of the need for flexibility in ensuring that measures are put in place to maintain the qualifications of pilots, including the possibility of retraining grants?

Baroness Vere of Norbiton (Con): My Lords, in conjunction with my department, the CAA has issued a number of regulatory exemptions to help support pilots through the Covid-19 period. These exemptions provide an extension to the standard validity period of licences and ratings, but subject to some conditions. Alongside this, of course, we are looking at the recovery phase for the sector and are doing a lot of work in this area. One of the workstreams for the recovery phase is skills and workforce, and we will bear in mind what my noble friend had to say.

The Lord Speaker (Lord Fowler): I now call the noble and right reverend Lord, Lord Eames. Lord Eames? Lord Eames, for the third time? I think I will move on, in the interests of time. I call the noble Lord, Lord Rosser.

Lord Rosser (Lab): Key asks from the airline industry are the implementation of testing for passengers arriving from high-risk destinations—not least New York—greater transparency on the Government's methodology for determining travel corridors and restrictions, a temporary 12-month waiver of APD and the regionalisation of travel corridors, as I am sure the Minister knows. How many of those do the Government intend to agree to?

Baroness Vere of Norbiton (Con): First, I wish the noble Lord a happy birthday. The Government are taking all those key asks that he refers to extremely seriously. As he will know, very early in the process—in May—we set up the aviation restart and recovery expert steering group, which gave us an enormous insight into the amount of support and the sorts of things we could do for aviation. That has now moved on to become a recovery-only sort of group, looking at longer-term policy thinking, including regional connectivity, economic growth, skills and workforce and decarbonisation. We are well aware of all the issues that he raises, and we are working with the industry to do what we can.

The Lord Speaker (Lord Fowler): I now call the noble Lord, Lord McNally. There is no Lord McNally, so I call the noble Baroness, Lady Tonge.

Baroness Tonge (Non-Afl) [V]: My Lords, the Minister will perhaps know that the only good thing to have come out of the Covid-19 pandemic is a welcome reduction in air traffic noise and air pollution around Heathrow Airport. Can she assure us that, whatever the outcome of the appeal by Heathrow to the Supreme Court, if work is ever resumed on a third runway the original air pollution, noise and traffic conditions will still apply?

Baroness Vere of Norbiton (Con): My Lords, the construction of a third runway at Heathrow Airport is a private enterprise and all the current planning restrictions would continue to apply.

Lord Bowness (Con): My Lords, in a reply to me on 2 July at col. 1283, my noble friend told me that the Government were working very closely with UK-based aviation providers and others to establish international standards for getting our planes back into the air. Precisely what discussions have taken place and what has been achieved in practical terms on the ground and in the air in the past three months? Secondly, have the Government made any estimate of the number of jobs at risk in aviation itself, airports, aerospace, their suppliers and the communities around them if flights are not enabled to return to some sort of normality very soon?

Baroness Vere of Norbiton (Con): Turning to my noble friend's second point first, there will inevitably be redundancies within the aviation sector. That is of course hugely regrettable and, while public health remains our top priority, we are committed to enabling a sustainable and responsible return to international travel as soon as we possibly can. In terms of our work with other countries and the international aviation community, our conversations with others have fed into the guidance that we have issued for aviation for journey planning, social distancing, cleaning, face coverings, PPE—all those sorts of requirements. The UK is also playing a leading role at ICAO in the ICAO Aviation Recovery Taskforce.

Baroness Boycott (CB) [V]: My Lords, given that the pandemic is not going away and airlines will therefore be in trouble, they will probably require bailouts. Will the Government agree with the recommendation by the Committee on Climate Change and commit to a net zero goal for UK aviation as part of the forthcoming

[Baroness Boycott]
aviation consultation and strategy, as well as the principle that the aviation sector should not receive bailouts without setting individual net zero targets and careful plans as to how they are to achieve that?

Baroness Vere of Norbiton (Con): My Lords, the Government are doing an enormous amount of work with the aviation sector. We have set up the Jet Zero Council, which is working towards making sure that aviation is able to play its part to ensure that we get to net zero by 2050. As the noble Baroness pointed out, some companies may in future approach the Government for specific help. As I noted earlier, there is the Birch process to go through, but that can be used only if all other sources have been exhausted and there may well indeed be certain conditions attached.

Lord Dobbs (Con): I am pleased to tell my noble friend that I have been through four airports over the past couple of weeks and it has all gone remarkably smoothly, except with some slight, inevitable confusion with the passenger locator form—a very useful tool but in its infancy. It is a compulsory requirement, as I understand it, but you are not necessarily required to present it at the arrival airport. Can my noble friend tell me what percentage of passengers are required to show their passenger locator form, and can she give the number of passengers who have recently shown positive Covid tests?

Baroness Vere of Norbiton (Con): I am very pleased that my noble friend is doing his part to keep the aviation industry afloat. The passenger locator form is a requirement for every person arriving in this country. On 9 September, the Prime Minister announced that there were plans to simplify, shorten and streamline the whole process. Border Force does spot checks on arrival to make sure that people have filled out the passenger locator form, and they are liable for fines if they have not.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed; all supplementary questions have been asked.

3.43 pm

Sitting suspended.

Asylum: British Overseas Territories and Ferries

Private Notice Question

3.48 pm

Asked by ***Lord Foulkes of Cumnock***

To ask Her Majesty's Government whether they are planning (1) to establish asylum processing centres in British Overseas Territories, and (2) to house those who are seeking asylum on disused ferries; and, if so, how any such plans would comply with international obligations.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, as my right honourable friend the Home Secretary said yesterday, the asylum system is broken, and we stand by our obligations to safeguard the most vulnerable people fleeing oppression, persecution and tyranny. We will take every necessary step to fix this broken system and we will continue to examine all practical measures to effectively deter illegal migration. We do not comment on leaks.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, but will the Minister concede that the options which have been very authoritatively leaked and have been in almost every newspaper would be inordinately expensive, probably illegal but, above all, inhumane? As a do-gooder, I ask the Minister if she will go back to the Home Secretary and say that on this issue, doing good is just common humanity.

Baroness Williams of Trafford (Con): Well, I think any noble Lord who listened to my right honourable friend yesterday will at least concede that humanity was at the heart of what she was saying. She was talking about a "firm and fair" immigration system, and about the people traffickers who exploit the most vulnerable. I can confirm that we will act in accordance with our international conventions, and I will not comment on the leaks.

Baroness Lister of Burtersett (Lab): My Lords, I have read the Home Secretary's speech, but how do such ideas, which are widely condemned as inhumane and dehumanising, square with her stated ambition to build a

"more compassionate … Home Office that puts people first"?

Are asylum seekers not people with human rights who are entitled to be treated with dignity? According to the central recommendations of the *Windrush Lessons Learned Review*, that should underpin all Home Office policy.

Baroness Williams of Trafford (Con): The noble Baroness will appreciate that my right honourable friend the Home Secretary's words do not accord with many of the things that were leaked. She is absolutely committed, as the noble Baroness will have heard, to accepting all the recommendations in the Wendy Williams lessons learned report. We are working through those now and we want a humane, fair but firm immigration system.

Baroness Hamwee (LD): My Lords, are the reports intended as a message to people who seek sanctuary in the UK or as a dog whistle to the red wall?

Baroness Williams of Trafford (Con): Again, I will not comment on leaks.

Lord Mackay of Clashfern (Con) [V]: My Lords, can the Minister please say why there is such delay in deciding applications for asylum status that so much accommodation is required for applicants?

Baroness Williams of Trafford (Con): My noble and learned friend is right to point out the delays in assessing asylum claims. Of course, it has been incredibly difficult during the last few months, and many people who should have had their claims processed in normal times are having to wait. However, to that end, they are still able to receive Section 95 support while their claims are assessed. On accommodation, my noble and learned friend is absolutely right that an awful lot of people are in accommodation for those very reasons.

Lord Alton of Liverpool (CB): My Lords, will the noble Baroness at least accept that the answers to the root causes of why 70.8 million people are displaced worldwide will not be found on Ascension Island or disused oil rigs or ferries, and that we must urgently tackle those root causes and bring people together who will look for them? Will she also accept support for the Home Secretary's call for legal routes for those who are at genuine risk of harm and for the Government's determination to tackle criminal gangs involved in the trafficking of migrants, and say when detailed plans on that will be published?

Baroness Williams of Trafford (Con): I am very pleased to agree with the noble Lord. In fact, he and I spoke the other day about our absolute agreement on how, if we can find the root causes and tackle them, we will cut out some of the criminality around this. My right honourable friend the Home Secretary was absolutely serious yesterday about pursuing those legal routes, because they are the way to run the system.

The Lord Bishop of Southwark: My Lords, talk of Her Majesty's Government possibly acquiring timeshares in property on the isle of Elba or anywhere else aside, it is worth noting that the Home Secretary yesterday stressed the importance of "safe and legal routes" to asylum in the United Kingdom. I was grateful to hear that. Since the Government have now determined that it is safe and appropriate to resume deportation flights from the UK, will the Minister confirm that they have decided to resume immediately the refugee settlement programme they suspended in March? If not, will she inform the House of the difference in criteria for holiday and deportation flights and for those seeking sanctuary in this country?

Baroness Williams of Trafford (Con): As the right reverend Prelate said, my right honourable friend talked specifically about safe and legal routes. Deportation flights, and indeed the processing of asylum claims and removals, are still very difficult. Some deportations have taken place, and some arrivals have taken place over the last few days. However, both sides of the system are incredibly slow at the moment, for obvious reasons. I can absolutely assure the right reverend Prelate that, when things become more normal, resettlement will resume in the way that we would want it to.

Lord Rosser (Lab): Somebody has done the newspaper leaking, and they are probably in government. Yesterday, the Home Secretary said that she would "fix" the asylum system—but, typically for the Government, who have been in office for 10 years, blamed others for the Government's own failings in processing asylum applications. Did the Home Secretary mean "fix" the asylum system like the Government and their algorithms "fixed" the school exam systems, or like the Government and their private contractors have "fixed" the test and trace system, or like their Immigration Acts 2014 and 2016 and the hostile environment "fixed" the Windrush generation? Can the Government say in advance which innocent parties will be unjustly and unfairly hurt this time by yet another loudly announced government scheme to "fix" something—namely, the asylum system?

Baroness Williams of Trafford (Con): The word fix—by the way, may I join other noble Lords in wishing the noble Lord a very happy birthday?—was in reference to something that I think nobody in this Chamber can deny was completely broken. Noble Lords have talked consistently about legal routes and the humane treatment of asylum seekers, and I agree with absolutely all of those things. We need to recognise that something is broken in order to fix it.

Baroness Hussein-Ece (LD) [V]: The United Nations High Commissioner for Refugees has said it is not party to any UK government discussions on offshoring asylum seekers or housing them on ships or far-flung islands. So can the Minister assure the House that the UK will provide asylum seekers with access to procedures which comply with international law? Also, as the noble Lord, Lord Alton, said, when will the legal routes that are being referred to be brought forward so that vulnerable asylum seekers can take them without being demonised by the Government?

Baroness Williams of Trafford (Con): I can certainly assure the noble Baroness of the first, which is that we will abide by our international obligations. The legal and safe routes will be announced in due course; I am looking forward to that, because the whole issue of legal and safe routes has needed to be sorted for some time now.

Viscount Trenchard (Con) [V]: My Lords, does my noble friend agree that it is essential to destroy the business model as currently used by the people traffickers, either by reaching agreement with the French Government that British ships may intercept migrant boats within French territorial waters and return them to France, or by establishing assessment centres overseas, possibly by agreement with countries such as Morocco or Algeria, along the lines of the former Australian detention centres in Papua New Guinea or the Republic of Nauru? Would the Minister also agree that such a policy would indeed comply with our international obligation to provide protection as required by the UN refugee convention of 1961?

Baroness Williams of Trafford (Con): I say to my noble friend that we need to explore diplomatic and legal avenues and those that comply with international law to explore some of the options that will be available to us.

Viscount Waverley (CB) [V]: My Lords, will reviewing the asylum appeals process also be considered? Also, on a question of practicality, will the Government consider by what routes failed asylum seekers could be repatriated if they have come from a third location, the cost of doing so, with the costs of valuation teams and healthcare provisions properly factored in? Does this not all make the case to utilise cruise ships in the Thames estuary a sensible provision for the Government to consider?

Baroness Williams of Trafford (Con): My Lords, I am sure that many options will be considered. However, the noble Viscount is absolutely right that asylum appeals are protracted, cost a fortune and leave the people claiming asylum, and their appeals, in limbo.

Baroness Goudie (Lab) [V]: My Lords, this is a huge cash business for the traffickers, and many countries that we deal with, particularly the Cayman Islands, Gibraltar and Malta, are the homes of the traffickers' bank accounts. What is being done to take forward the legislation that we have to do something about this?

Baroness Williams of Trafford (Con): Noble Lords will have gleaned from my right honourable friend the Home Secretary's speech yesterday that dismantling those trafficking business models, as the noble Lord said previously, is key to bringing forward safe and legal routes, but the only people who are benefitting currently are the people traffickers.

Lord Davies of Gower (Con): My Lords, while accepting that we must do everything humanly possible to help those arriving on our shores claiming to have been persecuted in their native countries, the Government's first duty must be to protect UK citizens. What assurance can the Minister give that those immigrants awaiting assessment who are being placed at various locations around the UK, such as the Penally camp in west Wales, do not have a history of criminality which could be a threat to local residents who, along with local political representatives, it seems were not warned of their impending arrival?

Baroness Williams of Trafford (Con): It is very important that local authorities are not only warned of impending arrivals but consulted with and engage with the people arriving. Criminals should be assessed quickly and expeditiously, and I think that no noble Lord would disagree with criminals who need to be deported being deported quickly.

The Deputy Speaker (Lord Lexden) (Con): My Lords, all supplementary questions have now been asked.

Immigration and Social Security Co-ordination (EU Withdrawal) Bill

Report (2nd Day) (Continued)

4.03 pm

The Deputy Speaker (Lord Lexden) (Con): My Lords, we will now proceed with the remaining amendments and debates. I will call Members to speak in the order listed in the annexe to today's list. Interventions during speeches or before the noble Lord sits down are not permitted, and uncalled speakers will not be heard. Other than the mover of an amendment or the Minister, Members may speak only once on each group. Short questions of elucidation after the Minister's response are permitted but discouraged. A Member wishing to ask such a question, including Members in the Chamber, must email the clerk. The groupings are binding, and it will not be possible to degroup an amendment for separate debate.

A Member intending to press an amendment already debated to a Division should have given notice in the debate. Leave shall be given to withdraw amendments. When putting the question, I will collect voices in the Chamber only. If a Member taking part remotely intends to trigger a Division, they should make this clear when speaking on the group. We will now begin.

Amendment 15

Moved by ***Lord Dubs***

15: After Clause 4, insert the following new Clause—

"Leave to enter: family unity and claims for asylum

(1) For at least such time as a relevant agreement has not been concluded and implemented, a person to whom this section applies must be granted leave to enter the United Kingdom for the purpose of making a claim for asylum.

(2) This section applies to a person who—

(a) is on the territory of any relevant Member State;

(b) makes an application for leave to enter for the purpose of making a claim for asylum; and

(c) would, had that person made an application for international protection in that Member State, have been eligible for transfer to the United Kingdom under Regulation (EU) No. 604/2013 by reason of a relevant provision if the United Kingdom remained a party to that Regulation.

(3) An application for leave to enter under subsection (2)(c) shall be made in such manner as the Secretary of State may prescribe save that—

(a) there shall be no fee for the making of such an application and no requirements may be prescribed that are unreasonable having regard to the purposes of this section and the circumstances of persons to whom it applies;

(b) in relation to such applications, the Secretary of State shall make arrangements to ensure that applicants receive a decision regarding their application no later than two months from the date of submission of the application.

(4) A claim for asylum made under subsection (2)(b) must remain pending throughout such time as no decision has been made on it or during which an appeal could be brought within such time as may be prescribed for the bringing of any appeal against a decision made on a claim or during which any such appeal remains pending for the purposes of section 104 of the Nationality, Immigration and Asylum Act 2002 (pending appeal); and a claim for asylum remains one on which no decision has been made during such time as the claim has been made to the Secretary of State and has not been granted, refused, abandoned or withdrawn.

(5) The Secretary of State must, within six months of the day on which this Act is passed, lay before both Houses of Parliament a strategy for ensuring that unaccompanied children on the territory of a relevant Member State continue to be relocated to the United Kingdom, if it is in the child's best interests.

(6) For the purposes of this section—

"applicant" means a person who makes an application for leave to enter under this section;

"claim for asylum" means a claim for leave to enter or remain as a refugee or as a person eligible for a grant of humanitarian protection;

"Regulation (EU) No. 604/2013" means Regulation (EU) No. 604/2013 of the European Parliament and of the Council including the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast);

"relevant agreement" means an agreement negotiated by a Minister of the Crown, on behalf of the United Kingdom, with the European Union in accordance with which there is provision for the transfer of a person who has made an application for asylum in a Member State of the European Union to the United Kingdom which is no less extensive than Regulation (EU) No. 604/2013 insofar as that regulation operated to enable the transfer of a person to join a child, sibling, parent or other family member or relative in the United Kingdom before exit day;

"relevant Member State" means a Member State for the purposes of Regulation (EU) No. 604/2013;

"relevant provision" means any of the following articles of Regulation (EU) No. 604/2013—

(a) Article 8,

(b) Article 9,

(c) Article 10,

(d) Article 16,

(e) Article 17."

Member's explanatory statement

This new Clause aims to ensure that rights under UK law to family reunion, at present covered by the Dublin III Treaty, will continue after the transition period and that unaccompanied child refugees in Europe will have a legal route to sanctuary in the UK.

Lord Dubs (Lab) [V]: My Lords, this amendment is similar to the one I moved in Committee. It has cross-party support, and in due course I shall seek the opinion of the House on its merits.

The new clause aims to ensure that rights under UK law to family reunion, at present covered by Dublin III, will continue after the transition period, and that unaccompanied child refugees in Europe have a legal route to sanctuary in the UK. Our attitude to child refugees will help to define the sort of country that we are. Yesterday, the Home Secretary, Priti Patel, said that coronavirus had forced us to reflect on what is important to us in the UK: family, community and fair play. That is the focus of this amendment, although I am sure that her conclusions will differ from mine.

Child refugees are the most vulnerable of all refugees. One of our concerns must be to tackle trafficking and give child refugees legal routes to safety. If there are no legal routes to safety, the traffickers simply exploit vulnerable people, make a lot of money and endanger the lives of the children. Obviously, we cannot take all unaccompanied children in Europe, and I never suggested it, but I do intend that we should share responsibility for this with other European countries. The numbers are still relatively small, and the principle is important.

I visited the Moria camp on the island of Lesbos in Greece about 18 months ago. It was not only a camp, but also a powder keg waiting to blow up, and it has got worse since the fire. Clearly, that was an enormous tragedy. We have all seen the consequences. We also saw the Greek Government pleading with other countries for help with the numbers in Moria before the fire and repeating the plea after the fire. Despite all the arguments that are going on, I believe that if the arguments regarding child refugees were put to the British people, they would still basically be supported—not unanimously, of course, but I believe that there is a broad measure of public support for us being humanitarian and supporting child refugees.

I will develop some of these points. I mentioned Dublin III, and I shall go on to mention Section 67 of the 2016 Act, covering children who do not have family here. The Dublin III is for family reunion, and both represent legal routes to safety from Europe for children seeking to come to the UK. Family reunion under Dublin III is currently the only legal pathway to reach the UK from the EU for the purposes of claiming asylum. It will no longer apply after the transition period, so child refugees have only two and a half months to access a safe alternative to a lorry or a dinghy for crossing.

It is true that Her Majesty's Government has a draft proposal for family reunion, but I contend that it is inadequate. It seems to have been rejected by the EU anyway, as there are no plans to take it forward during the current negotiations, but even if there were, there would be serious problems with those proposals. They remove all mandatory requirements to activate family reunions. They remove the child's right to appeal against refusal, and some children would not be covered by the narrower definition of "family" which Parliament passed in the 2017 Act. Other safeguards have been removed too, such as deadlines. Indeed, according to an NGO, 95% of people helped by NGOs would fail the test proposed by Her Majesty's Government, so I do not think that this proposal has much merit.

It has also been said that Immigration Rules are there, but they are limited and simply do not cover this contingency. However, in contrast to the vagueness and imprecision regarding their approach to family reunion, the Government have proposed very firm measures indeed to return failed asylum seekers, and there is a real contrast between what we do to remove people and what we do to accept people who have a legitimate right to seek asylum here.

Given the deficiency in the Government's proposal, this amendment gives Parliament a chance to ensure the basic principle of family reunion. The numbers under Dublin III have in recent years been very small. Up to 2014, there were about 10 or 11 a year; since 2016, a little over 500 have come in under this. These numbers are important but are still very small compared with the movement of people and children into Greece, Italy, Malta and elsewhere.

Of course, we have all been appalled by the dangerous channel crossings—some of them involving children—but they are attempted only when the legal route is closed. Last year, some 3,000 unaccompanied children claimed asylum in the UK. Most of them came illegally. That imposes an enormous burden on Kent and Croydon. I will deal with a way forward a little later on.

[Lord Dubs]

Although we are out of the EU, when the transition period is over, we will still maintain the need for a future with European countries. In other words, we need a good relationship with Europe, we need to be on good terms and we need the good will of our European friends in these matters—indeed, in many other matters as well.

We were all shocked by what happened in Moria. I believe that we have a duty and a responsibility to help in such instances. In 2020, some 12,000 unaccompanied children have been granted asylum in this country, but more than 10,000 came via dangerous and illegal routes. Contrast that with Germany, which took 35% of child asylum claims; indeed, according to the UNHCR, it took 71,000 children in 2019. France, Greece, Spain: all have higher numbers than we have.

One can look at the list of countries that have offered to help the Greek Government in dealing with the consequences of the Moria fire and the other difficulties consequent on people fleeing across the Mediterranean for safety in Greece. Quite a few countries have stepped in to help. I have mentioned a few of them already but I will mention some of the others: Belgium, Bulgaria, France, Croatia, Finland, Germany—which I have mentioned—Ireland, Portugal, Luxembourg, Lithuania and Slovenia have all committed to welcoming unaccompanied child refugees. Even non-EU countries such as Switzerland and Norway have made such offers. It is rather disappointing that we have not yet made such an offer. We should join them in doing so. I do not know whether I mentioned Ireland in my list; if not, I should have done. There is an international responsibility, which we should share in. That is the proper way forward.

I turn to Section 67, the provision that enables unaccompanied child refugees who do not have family here to come here. A week or so ago, 21 council leaders urged the Prime Minister to support legal protection for refugees. I have mentioned the difficulties for Kent. I spoke to the leader of Kent County Council. Of course, all parts of the country should help; Kent should not have to bear the responsibility by itself. The national transfer scheme is sensible as far as it goes because it takes the pressure off Kent and Croydon and ensures, or helps to ensure, that other local authorities take a share of the responsibility. However, if we ask local authorities to take only national transfer scheme children, we block the route to safety for those children who are still in Europe. That means that we will encourage trafficking because we will be blocking a legal route. It is right that local authorities should be asked to play a part in the national transfer scheme but it is also right that local authorities play a part in taking children from northern France, the Greek islands and elsewhere.

Some time ago, 25 councils pledged more than 1,400 places for child refugees in Europe if the Government provided a safe and legal route for these children to come. I should mention that Scotland has played its part. The First Minister, Nicola Sturgeon, wrote to the Home Secretary on 10 August. In the last sentence of her letter, she said:

"We stand ready to play our part again and urge you to take a humane and welcoming approach to the resettlement of these refugees on the Aegean Islands."

We have commitments from a number of councils. Indeed, these councillors come from different parties. My amendment is a cross-party one. Support for child refugees—and the willingness to support them—comes from councillors of different political complexions, including Conservative ones. Councils prefer children to come via the legal route, of course, because then arrangements can be planned, the proper provisions can be made and it is not done in haste, as Kent must do if a dinghy arrives; it means that it can be done properly, which makes much more sense for local authorities.

We know that local councils have faced enormous financial pressures over the years—particularly recently—but as long as they are funded and supported adequately by central government, they are willing to welcome refugee children from Europe. We do not want children to arrive on our shores, on beaches in Kent and elsewhere, having gone across the most dangerous bit of water in the world. These pledges represent an enormous commitment that we should take advantage of.

4.15 pm

On Section 67, the Government said that 480 was the maximum that local authorities could take; they therefore capped the number at that figure. However, the original amendment that gave rise to this measure did not use the figure of 480. Indeed, an earlier amendment said 3,000 but it had to be deleted for parliamentary and technical reasons, so the amendment was open-ended. The Government's figure of 480 was arbitrary. If the Government say that the only reason for limiting the figure to 480 is because local authorities do not have places, we can demonstrate that local authorities can offer places. That is the way forward.

The arguments are well known to your Lordships. I will simply say this: some years ago, I was at Zaatari, the largest refugee camp in Jordan. It had 70,000 to 80,000 people in it. That camp was physically well maintained, with prefab buildings, sanitation and so on, but I talked to a young Syrian man there who had just finished school in the camp. I said, "What now?" He said, "I don't know. I have tried to get a job in the camp. I have tried to get job outside the camp. I have no future."

In my experience, human beings are able to put up with very difficult conditions if there is some hope at the end of the road for them, but where is no hope, there is only despair. Refugees and people wanting to claim asylum will do very dangerous things to find safety. If passed—I hope that it will be—this amendment will give hope to many child refugees in Europe. I beg to move.

Lord Kerr of Kinlochard (CB) [V]: It is a pleasure to follow the noble Lord, Lord Dubs, although he is also a bit of a pain because he has made such a powerful case that there is nothing really left to add. My speech should be seen as a footnote to his.

I declare my interest as a trustee of the Refugee Council. I followed the noble Lord there too; for a long time, he was the driving force and inspiration behind the Refugee Council. I want to get my revenge on him for stealing all the arguments that I was going to make by embarrassing him in telling the House that

the Refugee Council now meets in its new headquarters in Alf Dubs House in east Stratford. I want to get that on the record just to embarrass the noble Lord.

At the end of the Committee stage, the Minister kindly wrote us a letter to pick up on some of our points. In relation to this issue, the Minister confirmed that it remains the Government's goal to negotiate new arrangements for family reunion for unaccompanied asylum-seeking children. I should hope so, because we will fall out of the Dublin III regime at the end of the year and new arrangements will be needed if we are to fulfil our responsibility for these vulnerable children, stuck on their own in continental Europe, and unite them with their families here.

As the noble Lord, Lord Dubs, said and as my Refugee Council experience confirms, there is considerable evidence that the country would like to see us do so. Of all the asylum issues on which there is considerable public interest and support, family reunion is the one where public opinion is most strongly in favour of us doing our job.

I have to tell the Minister that her letter reads a little disingenuously. It repeats our government line, which has lost all credibility because there is no relevant ongoing discussion about new arrangements. There is no negotiation on this subject with the EU 27; the issue was not addressed in the first Frost-Barnier negotiations, which led to the withdrawal agreement; and it is not being addressed in the current negotiations, which might lead to a free trade agreement, and it now cannot be—Monsieur Barnier has no mandate to discuss it because our Government failed to include it in the joint political declaration a year ago.

The joint political declaration was, understandably, taken by the EU as the basis for the mandate for the present negotiations. We tore up the political declaration. We decided that on foreign policy, governance and, notoriously, on the level playing field, we no longer meant what we had subscribed to, but the other side took it as defining the negotiation that is now going on. Also, there was nothing about replacing the Dublin regulation in it.

So there can now be no bilateral UK-EU arrangement from January; nor can there be UK bilateral agreements with individual EU member states, because this is a subject on which we and they decided some time ago to empower the Commission to act on our behalf. Therefore, what will be needed is a new free-standing, EU-UK negotiating track. That does not exist now and will have to be established. We could of course have sought to establish it at any time but we did not, presumably because the subject was not particularly high on the list of the Government's priorities. The amendment would change that, but we too can change it: we can put it on the Government's priority list, bypassing this amendment, and I very much hope that we will.

Because the Minister would be very disappointed if I did not raise it, I shall say a word about the camp on Greece and the 400 unaccompanied children sleeping rough because the camp burned down. The Government's line, as set out in the Minister's letter, is that we are in regular touch with EU member states, including Greece, which are responsible for arranging transfers. That is the standard line, relying on the Dublin regulation, from which we are pulling out, and there is nothing proactive at all. There is nothing about going to find those of the 400 who would like to join their families here. It really is shaming when one thinks of what the Germans are doing, and it really is extraordinary given British public opinion on family reunion.

I strongly support the amendment and I hope that, when she speaks to it, the Minister will at last be able to tell us that we will do something about the unaccompanied children who are vulnerable and sleeping rough on the island of Lesbos.

The Lord Bishop of Southwark: My Lords, it had been the intention of the right reverend Prelate the Bishop of Durham to speak to this amendment, tabled in his name as well as that of the noble Lord, Lord Dubs, the noble Baroness, Lady Hamwee, and the noble Lord, Lord Kerr of Kinlochard, and but for the hiatus in the voting technology when the House last considered the Bill on Report, he would have done so. He regrets that he is unable to attend today's proceedings.

When we previously considered this amendment, in Committee, the right reverend Prelate the Bishop of Durham reminded us of the story of the good Samaritan. It is not just, or principally, a story of instinctiveness goodness, or we would soon tire of hearing of it. It recounts several characters, including a person who needs help, those who do harm and those who have choices about their actions in response—doubtless all individuals who paid their taxes, counted their accomplishments, did well by their families and friends, and obeyed the law. It was the victim's instinctive enemy who did right by him in showing compassion. Sometimes the choice we all face is whether or not to exercise generosity of heart.

We read in the helpful letter from the Minister of 30 September about the scale of refuge granted to vulnerable children proportionate to the European Union. Such welcome, especially to the most vulnerable, is to be acknowledged, as is the Government's attempt to reach an agreement with the EU on post-transition arrangements. However, given the sheer scale of raw human need that exists in the area of vulnerable children and family reunification, will the Minister please explain to the House what she believes the disadvantages would be of importing into our domestic law the very wholesome provisions of Regulation (EU) No. 604/2013? The regulation is entirely sensible and reasonable in requiring the Government to consider the best interests of the child.

Lord Randall of Uxbridge (Con) [V]: My Lords, the earlier technical glitch means that we will be pressed for time in this debate. Also, the technical difficulties of the hybrid House, which I fully understand, mean that we cannot indulge in what I think we should be doing, which is having a proper debate. We are making statements in these debates. I understand why and that is what I have been doing in these proceedings, but, because I do not want to delay matters, I want to ask the Minister a question. Are there ongoing discussions, as she said in her letter, or, as the noble Lord, Lord Kerr of Kinlochard, just said, is that not the case? That is really what I want to hear and I shall wait until the end of the debate to do so.

Baroness Lister of Burtersett (Lab): My Lords, in Committee I expressed dismay that in their negotiating proposals the Government seek to replace refugee children's rights under Dublin III with a discretionary provision that provides vulnerable children with neither the certainty nor the security that they need. The Minister did not respond on that point and I would be grateful if she could do so today.

I also raised the question of when the Government plan to restart the resettlement programme, paused because of Brexit. Although she justifiably made much of Britain's record on resettlement, she did not answer the question, which was also raised in the Private Notice Question by the right reverend Prelate the Bishop of Southwark. Last Monday in the Commons, the Parliamentary Under-Secretary of State explained that,

"as soon as we are safely and properly able to resume activity, we will do so."—[*Official Report*, Commons, 28/9/20; col. 10.]

Can the Minister tell us what criteria will be used to decide when it is safe and proper to do so? I am not sure that she answered precisely the right reverend Prelate when he asked a similar question on the PNQ.

4.30 pm

Can the Minister also provide a firm assurance about the future of refugee resettlement when the current scheme ends next year? Resettlement also raises wider questions that were discussed earlier about safe and legal routes, the importance of which, as we have heard, has been acknowledge by the Home Secretary in order to avoid dangerous channel crossings. However, the Government are doing nothing to guarantee such routes. This amendment, as we have heard, offers such a route post Dublin III, yet the Government are rejecting it. Instead, the Home Secretary has now confirmed that legislation is planned for next year to exclude asylum seekers who try to enter through unlawful routes. Can the Minister explain how it is possible to assess whether someone is genuinely seeking asylum on the basis of the route taken, which seems to be the implication of what the Home Secretary is saying?

According to the charity Safe Passage, since 2010, nearly five out of six unaccompanied children who have been granted asylum in the UK were forced to come here dangerously—that is, illegally, because they could not access a legal route. That is a telling statistic on what we are talking about today. As has been said, we are doing nothing to provide a route for the children who have been traumatised by the terrible fire in Lesbos.

In Committee, noble Lords across the House made clear how strongly they feel about the need for the UK Government to act, not just by giving money and goods, which is of course of value, but by stepping up to our responsibilities as the Germans have done—as the noble Lord, Lord Kerr, pointed out—and taking some of these children into sanctuary in the UK. The Minister did not explain in Committee why the Government are refusing to do this. Again, I would be grateful if she could do so now. We know from Chris Philp, the Minister in the Commons, that the reason is that apparently the UK is at "breaking point". That is unbelievable, especially as we have heard that local authorities have already offered to take in refugee children transferred from EU nations through safe and legal routes.

We may be world-leading when it comes to refugee resettlement, but as Amnesty has pointed out, that represents only a minority of refugees. Instead, Amnesty suggests that we are far from being a world leader, or even a European leader, when it comes to hosting refugees more generally. On 22 September in Grand Committee, the Minister agreed, saying that

"how we treat those who need our refuge"

is

"a reflection on us as a nation."—[*Official Report*, 22/9/20; col. GC 499.]

I am afraid that the Government's failure to show humanity and compassion, as promised in their comprehensive improvement plan, in their response to the Lesbos fire and their refusal to contemplate this very reasonable amendment, reflects very badly on us as a nation. I think that some of us would want to say: not in our name.

Lord Judd (Lab) [V]: My Lords, my old and noble friend Lord Dubs has, with his usual firmness, introduced this amendment and the reasons for it very well indeed, and the intervening speeches have all put the position strongly. I want to add a word or two.

The first point I want to make is that as we consider this huge and grievous humanitarian challenge, it is just as well to remember that we are dealing with a tiny proportion of what is happening across the world. Repeatedly, in all parts of the world, there are stories of a similar kind which undermine the whole cause of decent humanity.

This also makes an important point that I cannot resist making: we are always dealing with the symptoms. Although these symptoms are very real and must be dealt with, there is a challenge here for the international community to root out and face the causes of the problem. That should start with us working with our European colleagues, but we need international strategies. It is an incredibly difficult challenge, but we need to do this, and we must not lose sight of it by becoming preoccupied with particular aspects of the whole issue.

It is very easy, when looking at the situation across the globe and reading harrowing accounts of what is happening, to begin to feel a sense of helplessness and ask what on earth we can do. However, here we can do something. It is only a beginning, and only a small part, but we can do something; that is important not only in itself but will send a signal to the international community.

It would be immensely strengthening for the role the Government keep saying that they want to play, of being an outward-looking member of the international community. We have some difficulty in believing that that is a real conviction on the part of the Government, but it would give them immense strength if they were to take this course.

I am sure that most noble Lords will feel the same way, but I simply cannot with ease contemplate the prospect of vulnerable children, who have been through God knows what kinds of traumas, trying illegally to get into the UK during autumnal storms and the cold winter months. They are not illegal immigrants—what they are doing may be illegal, but they are not illegal immigrants. They are vulnerable, desperate children seeking our support, care, love and concern. We can

do something here, not least on the issue of children having to come here illegally by God knows what kind of dangerous route. We can play a really important part. I hope that there will be strong support across the House for this amendment.

Baroness Primarolo (Lab) [V]: My Lords, much has been said in the debate and I want to add a couple of quick points.

First, as the noble Lord, Lord Dubs, made clear in introducing this amendment, it provides a way forward for the Government to plan what we are to do in responding to the humanitarian crisis we face with regard to unaccompanied asylum-seeking children.

Secondly, the noble Lord, Lord Kerr, made it absolutely crystal clear to the House that there will be no route through by the end of December in negotiations with our European partners, either in collective negotiations with Michel Barnier or bilateral negotiations with EU member states. New negotiations will have to be started, but we will not be able to do that in time. My noble friend Lady Lister made an incredibly important point about the context and the misinformation that is being put forward about the ability of this country to provide safe sanctuary for those unaccompanied children who desperately need safe routes and have families here in the UK who could support them.

I do not want to go over the ground of other speakers. I want to ask the Minister, in her reply, to explain the way forward clearly to the House. During the debate on 22 September, on the European Union Select Committee report on Brexit, refugee protection and asylum policy, the Minister said:

> "The UK … provides safe and legal routes to bring families together through its … family reunion policy … under the family provisions in Part 8 … of the Immigration Rules."—[*Official Report*, 22/9/20; col. GC 500.]

She offered this as protection for when the arrangements that we have through Dublin III fall away at the end of December. What she did not go on to say was that those rules are much tighter, which would mean that what was defined as "family" would be much smaller. It would exclude siblings, aunts, uncles and grandparents, who play such a vital role, and it would curtail rights of appeal and other protections that are in place. Although the Minister may say in reply that there is scope in the Immigration Rules to grant leave outside the narrow definition in exceptional scenarios, these applications are very rare.

We know that local authorities have pledged places for unaccompanied child refugees in Europe and that, for the system to work properly, they need safe and legal routes to get here in the first place. That is what the Government must do: they have to organise a system so that we can plan and take these young people and children who have family here. As my noble friend Lady Lister said, this is not because we are taking huge numbers, because we are not. France and Germany, for example, take far more than we do. We are below the European average.

What we ask in this amendment is that the Home Secretary adopts these policies, so that, by the end of the year, the amendment will provide a way forward for unaccompanied children still to get here. From her speech and in the comments the Minister made earlier in the Private Notice Question, it seems that the Home Secretary is intending to make her announcements some time next year. The amendment provides a way forward in the gap between the end of this year and the Home Secretary bringing forward her plans. Indeed, it offers a structure for the Home Secretary to have a fair, safe and good humanitarian policy that defines Britain as a safe haven for those who desperately need our help, in partnership with others across Europe. I sincerely hope that, even at this late stage, the noble Baroness will indicate her willingness to take this amendment as a clear road map for how the Government should behave after the end of December.

4.45 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, I very strongly support this amendment and congratulate the noble Lord, Lord Dubs, on putting it forward in the first place. His personal experience of being part of Kindertransport in 1939 adds real texture to the amendment and makes it perhaps very personal. He is somebody who understands what it is like for these children. He came over legally, but many of these children are coming over illegally. However, the amendment is about family unity. Who can say that family unity is not a good idea? I would have thought it would be a central tenet of any Tory party manifesto, so I am staggered that there is any suggestion that this might not be a good thing.

The Government have recently made some fascinating announcements on asylum. New legal routes will be created; that is interesting. There will be more detention. As has already been pointed out, detention costs a lot of money and is very damaging to the mental health of people who are detained, so all in all more detention might not be the best thing. Our Home Secretary seems to mix up asylum seekers and foreign criminals. I have no idea why she experiences that sort of confusion, but it might be because the Government want us to fear asylum seekers and refugees. They are possibly creating this out of nowhere.

I am curious about how the Government can make announcements of this kind, without anything of substance in them. Lawyers, QCs and judges have looked at them and cannot find much of value, so why bother making such ridiculous statements? This is a question I would like the Minister to answer: are the Government and the Home Secretary completely out of ideas? In which case, accepting this amendment would be a very good idea, because it would ensure some stability in our asylum system and, I hope, would do less damage and make our country less inhumane and more welcoming.

The Earl of Dundee (Con) [V]: My Lords, I declare an interest as chairman of the Parliamentary Assembly of the Council of Europe's Sub-Committee on Refugee and Migrant Children and Young People.

In Committee, my noble friend Minister explained how, early in the pandemic crisis, following talks between her colleague Minister Philp and Greece, three flights of children arrived in the United Kingdom from the Greek islands. All of us will be very grateful to the Government for this. She also referred to the United Kingdom's humanitarian record in helping vulnerable people, including children.

[The Earl of Dundee]

The amendment of the noble Lord, Lord Dubs, does not so much cast doubt on that or on our future good intentions; instead, and in view of Brexit, its new clause seeks the continuation of rights to family reunion under United Kingdom law, currently secured by the Dublin III treaty yet not necessarily guaranteed after the transition period. Equally, and for the same reason, it aims to ensure that unaccompanied child refugees in Europe will have a legal route to safety in the United Kingdom.

In Committee, my noble friend the Minister gave a number of reassurances. One is the Government's present endeavour to pursue new reciprocal arrangements with the European Union for the family reunion of unaccompanied asylum-seeking children. Can she say what has been achieved so far and whether that level of progress may now stand to be advanced by the European Union's paper last week on asylum?

Then there is the role of our local authorities. My noble friend has pointed out that 5,000 unaccompanied children are in local authority care. There may well be councils that would take more, as the noble Lord, Lord Dubs, asserts. My noble friend has commented that, if that is the case, she would like to hear from them, also taking into account the extent to which Kent has to bear the brunt. Does she concur that an approach that is proactive without being coercive might work best? Therefore, should the Government perhaps be more in touch with local authorities to develop co-ordinated plans?

On the protection of vulnerable persons, my noble friend mentioned that current initiatives will be consolidated into a new global United Kingdom resettlement scheme. In outline, can she give us the aims and targets of this new scheme?

In promoting good practice, it goes without saying that internationally the United Kingdom ought to strive to take a lead. Post Brexit, let alone globally, does my noble friend consider that not least should the United Kingdom's humanitarian standards be well demonstrated in Europe itself within the 47-state affiliation of the Council of Europe, where the United Kingdom remains a much-respected and prominent member?

The Deputy Speaker (Baroness Finlay of Llandaff) (CB): As the noble Baroness, Lady Whitaker, has been unable to be contacted, I now call the noble Baroness, Lady Hamwee.

Baroness Hamwee (LD): My Lords, I put my name to the amendment on behalf of these Benches. To be saying at this stage—three months from the end of the transition period and very close to the practicable end date of the negotiations—that our draft agreement is still on the table, as was said at the previous stage, feels like a denial of reality, and I follow the noble Lord, Lord Kerr, in that comment. Like the noble Lord, Lord Randall, I will be interested to know the up-to-date position.

Certainly a prudent Government would look for a mechanism to plug the gap, as the noble Baroness, Lady Primarolo, said, in case the draft slips off the table or is just not picked up—and this is the mechanism. I am very glad to support it, as I did in Committee when I too had an amendment on family reunion. At that stage, the Minister said that the Government had acted in good faith and that she hoped that the EU would do the same. Like the noble Lord, Lord Dubs, I cannot say that I regard the draft agreement as adequate. The principal obligations are not obligations—they are discretionary—but, whoever should take the blame for the stalemate, we must not let asylum seekers be the losers by being caught in the middle. They are not illegal, not unless and until their claim is refused.

This is likely not to be the first time that I will be taking a different view from the Minister about pull factors, especially when the push factors are so significant.

Of course we agree on the importance of safe and legal routes. That is the most important thing. Our view is that what is safest is to provide legal routes and deprive criminals of the opportunity to exploit people. It may be that our routes to that differ somewhat—perhaps they are not the means that the Home Secretary is considering—but that is not really for today. As has been said, our current rules are inadequate. The Government refer to that well-known paragraph 319X of the rules as providing the route that allows children to join relatives recognised as refugees, but the scope is very narrow, there are many restrictions and substantial fees are payable. As I understand it, the data does not separate out the categories or the basis of application, and those who take that route are included in the Home Office's figures with other routes. Including all those routes, there were only 30 successful applications in 2018 and 54 in 2019. It is certainly not an adequate substitute for a successfully negotiated agreement on family reunion or a change in the UK's rules, at least until an agreement or agreements are negotiated, as the amendment provides.

Working with the UNHCR and resettling people from the Middle East is not something we want to see replaced. The noble Lord, Lord Judd, the noble Baroness, Lady Lister, and others referred to the numbers in this plight across the world. As the noble Lord, Lord Dubs, said, we cannot take everyone but we can play our part. It seems to us that it is a policy decision for the Government whether to make it an "and" rather than an alternative.

Lord Rosser (Lab): My Lords, unless action is taken now, the arrival of 2021 will see child refugees in Europe lose safe and legal routes to the UK since neither a right to family reunion nor access to the Dubs scheme, under which lone children had a legal route to sanctuary in the UK, will then be available. Family reunion under Dublin III regulations is currently the only available legal pathway to reach the UK from the EU for the purposes of claiming asylum. That pathway will no longer exist after the end of the Brexit transition period in three months' time.

The Government gave assurances to Parliament at the beginning of this year that they would protect family reunion for unaccompanied children. The Government have since removed any mandatory requirement to facilitate family reunions, making it simply discretionary. Including the terms of Amendment 15 in the Bill will ensure that routes to safety through family reunion and relocation remain, which means that families can reunite and children can reach safety.

Between 2009 and 2014, before mandatory provisions were introduced by Dublin III, family reunions to the UK, for both children and adults, were carried out at an average rate of 11 people annually. Between 2016 and 2018, after mandatory provisions were introduced by Dublin III, family reunions to the UK were carried out at an average rate of just under 550 people annually, which strongly indicates that families remain separated without mandatory requirements on government to facilitate family reunions. As my noble friend Lord Dubs said, the figures also suggest that the numbers involved under a mandatory requirement are very small, certainly compared with the hundreds of thousands of people whom this Government, without any free movement requirement to do so, do not have any issues with freely allowing to come to this country each year from outside the EU.

As my noble friend Lady Lister of Burtersett said, research has shown that of the 12,000 unaccompanied children granted asylum by the UK over the past decade, some 10,000 came to the UK by dangerous routes on lorries and small boats, probably via people smugglers, because they could not access a legal route. That lack of access to a legal route is going to become absolute from the end of this year for the reasons set out by the noble Lord, Lord Kerr of Kinlochard, and the consequences, in respect of risks to their safety, for those seeking to join their families and for unaccompanied children, are simply going to get even worse. Action is needed now to address the situation that is imminent. If it is put to a vote, we will support Amendment 15.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I thank all noble Lords who have spoken in this debate, and particularly the noble Lord, Lord Dubs, for tabling Amendment 15. This Government are equally as concerned as all noble Lords about the well-being of vulnerable children and are committed to support them wherever we can. As the Home Secretary announced yesterday, the Government are intent on reforming our broken asylum system to make it firm but fair, and we will bring forward legislation next year to deliver that commitment. Our reformed system will be fair and compassionate towards those who need our help by welcoming people through safe and legal routes. The noble Baroness, Lady Primarolo, asked me what those safe and legal routes would look like. I think the Home Secretary will set that out in due course. It will be firm because we will stop the abuse of the system while standing up for the hard-working, law-abiding majority of people who play by the rules.

The noble Baroness, Lady Lister, said that the Home Secretary said that we would turn away people who arrive here illegally. No; we will absolutely target people who traffick other human beings illegally. We want to help people who are desperate and need our protection so it is quite the opposite, even though they are basically being exploited by criminals. We have a proud record of providing safe haven to those in need and fleeing persecution, oppression or tyranny through our asylum system and our world-leading resettlement schemes. I assure noble Lords that this will continue.

5 pm

We granted protection and other leave to over 5,800 children seeking protection in the year ending June 2020 and, as I have said before, more than 44,000 since 2010. There were questions from the noble Lords, Lord Dubs and Lord Kerr, and the noble Baroness, Lady Primarolo, about how many UASCs we got applications from. If I might give some Eurostat figures: Germany had 2,690 UASC claims in 2019, France had 755, Greece had 3,330 and the UK 3,775. I hope that makes it clear just how many children are seeking our asylum here.

I take this opportunity to express my sadness once again at the tragic fire that occurred in Moria camp on Lesbos. I can now confirm that the UK is standing by Greece and working with it to support those in dire need. The aid we are providing will help the most vulnerable families to stay safe and ensure they are able to feed themselves. I can also confirm that we remain fully committed to meeting our obligations under the Dublin regulation during the transition period, including for the family reunion of asylum seekers in Europe with eligible family in the UK. We are in regular contact with sending states, including Greece, to facilitate transfers; in fact, last Friday we announced the successful transfer of 28 asylum seekers from Greece to reunite with their family members here. I must, however, point out that the sending state is usually responsible for arranging the transfer.

This amendment is identical to Amendment 48 tabled in Committee by the noble Lord, Lord Dubs. I would like to reiterate some of my concerns about it here, as well responding to the issues raised by noble Lords today. First, I know that the noble Lord, Lord Kerr, is sceptical about this but the UK has made a credible and serious offer to the EU to agree new, post-transition arrangements for the family reunion of unaccompanied asylum-seeking children and it remains our goal to negotiate such an arrangement. He asked me to provide continuous commentary on those negotiations and I cannot. I will say, in answer to my noble friend Lord Randall of Uxbridge, that I can confirm that negotiations are continuing and that it would not be right to undermine them with domestic legislation such as this. A UK-EU agreement would be preferable to domestic Immigration Rules, as it would guarantee the support of sending states in the referral, transfer and safeguarding of children during the process. Domestic rules cannot ensure this. A negotiated agreement is therefore our goal and we do not want to pre-empt it with domestic legislation.

Secondly, this new clause also seeks to replicate in UK rules the Dublin regulation provisions for the family reunion of adults and accompanied children but we already provide those safe and legal routes for people to join family members in the UK through our refugee family reunion rules, as well as through Part 8 and Appendix FM of the rules, all of which are of course unaffected by EU exit. It therefore seems that there would not be much benefit in recreating EU law when we have appropriate domestic provisions already in place.

Thirdly, there is the issue of allowing individuals in the UK to sponsor family members to join them here before a decision on their asylum claim is made.

[Baroness Williams of Trafford]
These individuals and their families may end up being unable to remain in the UK if their asylum claims fail. This would create only greater uncertainty for these families. Furthermore, some of these individuals or their UK sponsors may not necessarily need protection themselves. We want to guard against facilitating entry for those who may seek to make unfounded claims of our protection systems for economic migration purposes. This would reduce our capacity to assist the most vulnerable refugees.

Finally, I reiterate the point I made in Committee regarding the additional requirement that this new clause imposes on the Government: to lay a strategy for a new scheme for relocating unaccompanied children from Europe who would not be joining family here. This would be incredibly difficult to deliver. Despite what the noble Lord, Lord Dubs, said and what my noble friend Lord Dundee tempts me to do, local authorities are already caring for over 5,000 unaccompanied asylum-seeking children. That is 146% more than in 2014. Again, nobody can be blind to the pressure that Kent is under, illustrating the point that some local authorities are under incredible pressure. Our priority has to be to support them and the children already here first and foremost. We have never forced local authorities to take children and we will not. We are very grateful for the help that we have had.

My noble friend also asked me about targets for resettlement. He will remember that the Prime Minister talked last year about 5,000 per year in a whole-of-world scheme, from any area that needs our help and requires our asylum. That will be up and running just as soon as it possibly can. The noble Baroness, Lady Lister, rightly asked when that point will be. Clearly, it will be when it is safe to do so; in other words, when PHE advises us that it is safe to bring people here. She also asked how we can assess whether someone is using a legal route. I think we know what an illegal route looks like and the danger that it puts people in.

The noble Lord, Lord Dubs, told me in Committee that he knows of a large number of local authorities which would be willing to provide care places for children. This type of ping-pong has been going on for some time but I have yet to hear from him with those details. We are always glad and very pleased to hear from local authorities if they can take more children. The UK continues to be one of the highest recipients of asylum claims from unaccompanied children across Europe. As I have just pointed out, it received more claims than any other EU member state in 2019 and 20% of all claims made in the EU and UK. I draw the House's attention to the UK's resettlement schemes, which have provided safe and legal routes, directly from conflict regions, for tens of thousands of people in the greatest need of protection.

Perhaps I may turn again to the unaccompanied children affected by the tragedy on Lesbos. First, it is my understanding that the offers from Germany and nine other EU member states to relocate 400 of those children account for nearly all the 407 children who had been living in the camp, but I have also outlined what we did on Friday in Greece.

Secondly, noble Lords have suggested that the UK should use our resettlement schemes to relocate children from European states such as France and Greece. I want to clarify that our resettlement schemes rely on referrals of recognised refugees from UNHCR, which refers cases in line with its global priorities. It does not currently advocate for resettlement within the EU.

Thirdly, in Committee, some noble Lords—including the noble Baroness, Lady Lister, and the noble Lord, Lord Rosser—contended that the draft legal text that we have tabled in negotiation with the EU on accompanied children is weaker than that of Dublin. I reassure the House that, under the terms of our draft text, the UK would of course act on requests from sending states where we are satisfied that the criteria for transfer, as set out in the proposed agreement, are met. Where they are not met, we should not be reuniting children, as it would not be in their best interests. This is the approach that we and the EU member states take under Dublin, and it is the right approach.

The noble Lord, Lord Kerr, contended that our text is not on the Government's priority list. We would not have laid it if we did not see it as something very important to negotiate with the EU. With regard to the legal rights conferred by the draft text, any agreement reached with the EU would then be implemented in accordance with published policy guidance, and the UK courts will be able to hold us to account on our implementation of that guidance.

Finally, the noble Lord, Lord Jay, stated during the debate on 22 September that

"UK Ministers … should take pride in, and be vocal advocates for, protecting refugees from persecution."—[*Official Report*, 22/9/20; col. GC 473.]

I say to noble Lords that I am very proud of all that we as a Government have done, and continue to do, to protect vulnerable people, including unaccompanied asylum-seeking children, through our asylum system and resettlement schemes.

In Committee, I was grateful to the right reverend Prelate the Bishop of Durham—who I know cannot be in his place today—for bringing forward an amendment on safe and legal work pathways for talented displaced persons. I am also grateful to all those who spoke in support of it. The Government are committed—and we have already spoken about this with the right reverend Prelate—to further constructive engagement on identifying ways that we can level up mobility for displaced persons across the labour market. I welcomed the opportunity to discuss those proposals with him and others, including Talent Beyond Boundaries, on 23 September. I look forward to continuing those discussions over the next 12 months and to working together towards solutions, so we can ensure that the UK attracts the best and brightest talent regardless of individuals' backgrounds.

The noble Baroness, Lady Jones of Moulsecoomb, said that she thought the Home Secretary was confusing asylum and foreign national offenders. I do not think that she is confused about those two things at all. Central to her priorities is to take back control of our borders, restore trust in our immigration system and ensure that, overall, we have an immigration system that is fair and compassionate and continues to meet our international obligations.

The noble Lord, Lord Dubs, has already said that he will divide the House. I do not think that I can dissuade him from that, but I hope he will withdraw his amendment.

The Deputy Speaker (Lord Bates) (Con): I have received two requests to ask the Minister a short question from the noble Baroness, Lady Hamwee, and the noble Lord, Lord Kerr. I will call them in the order in which they were received, so, first, I call the noble Baroness, Lady Hamwee.

Baroness Hamwee (LD): My Lords, the Minister said it would not be right to undermine negotiations with the EU by domestic legislation. Would it not be possible to include a provision in the Bill, such as that of the noble Lord, Lord Dubs—this would be our only opportunity to do so—but not to commence that provision if it is overtaken by the agreement with the EU?

Baroness Williams of Trafford (Con): We do not want to pre-empt it with domestic legislation. I recall that, way back when, your Lordships' House, and in fact Parliament, were pressing us to unilaterally agree the settlement scheme for EU nationals. We made it quite clear then that it was very important that both sides, if you like, played their part, but on this I do not think that domestic rules can ensure it. Therefore, the negotiated agreement is the optimum goal.

5.15 pm

Lord Kerr of Kinlochard (CB) [V]: I am very grateful to the Minister for her courtesy in responding to my point. I want to make sure that there is no misunderstanding between us. I did not challenge the statement in her letter that

"it remains our goal to negotiate"

new arrangements. I said that there is no current negotiation of these new arrangements. I recall the proposal the Government made before the summer; my view of it was similar to that expressed by the noble Lord, Lord Dubs, in this debate. However, the important point is that the EU had no mandate to discuss it and it is not being discussed.

I have two questions. First, does the Minister agree that there is now no negotiation of Dublin III successor arrangements for the United Kingdom? Secondly, does that mean that there will be no family reunion arrangements on 1 January unless we pass this amendment?

Baroness Williams of Trafford (Con): I think I quoted the noble Lord, Lord Kerr, saying that he did not think it was a priority for the Government. He made a point about there being no mandate. I cannot comment on the minutiae of negotiations; all I can say is that there is a sincere and genuine offer on the table, and we stand ready to progress those negotiations.

The noble Lord asked me to confirm that there will not be a successor to Dublin III. We are not trying to create Dublin; we are trying to create a system in which we can bilaterally—by which I mean between us and the EU—ensure the transfers of people.

Lord Dubs (Lab) [V]: My Lords, I am grateful to all noble Lords who spoke in this debate. I would take rather a long time if I commented in detail, because some important points were made, but I am grateful that they were made.

On the point made by the noble Lord, Lord Kerr, my understanding has for some time been his understanding: although the Government want to negotiate, the EU is not showing any signs of reciprocating, but the outcome will be a total gap on 1 January.

I shall comment briefly on some of the Minister's points. She said that the Home Secretary wants to get rid of the broken asylum system. We all do. We all have criticisms of the asylum system—the length of time that it takes to reach decisions and all the other things—but we went to mend it in a different direction from that of the Home Secretary. That is the purpose of this amendment.

Secondly, I welcome the fact that some small numbers of children and others have come under the Dublin III arrangements from Greece. That is a good thing. However, we have only till 1 January and, unless something happens, such as this amendment, there will be no way in which people, and these young people particularly, can come to this country.

Thirdly, I agree with the noble Baroness, Lady Hamwee. I do not understand why our saying that we will take unaccompanied child refugees through an Act of the British Parliament in any way undermines anything with the EU. This would be a humanitarian move and other EU countries are making humanitarian moves. Various countries—the Germans, French, Portuguese and Irish—have said that they will take people from the Greek islands. They do not undermine anything; they do it in a spirit of international co-operation.

I remind the Minister, before I come on to local authorities, that the United Nations High Commissioner for Refugees, whom the Minister quoted with approval about helping the process, said recently that he supported Section 67 on taking unaccompanied child refugees and thought it was a good thing. I should have thought that that was an additional argument.

Lastly, on local authorities, let me just say that I have a list. I am not going to quote them all; some of the commitments were made about a year or two ago and we would not want to quote them unless they were willing to stand by those commitments in the new circumstances today. However, I shall mention a few of them. There is West Dunbartonshire Council, an SNP-Independent minority council, Dumfries and Galloway, which is Conservative, and Hammersmith, which is a Labour council. The London borough of Richmond was a supporter of legal routes—and then there are Dorset, Bournemouth and Brighton and Hove councils and, as I mentioned, those in Scotland. There are others. I shall write to the Minister and give her a list of local authorities that are willing and able to take unaccompanied refugee children.

I thank the Minister for her very gracious way of responding and her constant helpfulness in being willing to meet and talk to many of us about some of the issues. I appreciate that. I am afraid that on this occasion we will have to differ. I wish to put the amendment to a vote.

5.20 pm

Division conducted remotely on Amendment 15

Contents 317; Not-Contents 223.

Amendment 15 agreed.

Division No. 4

CONTENTS

Aberdare, L.
Addington, L.
Adebowale, L.
Adonis, L.
Alderdice, L.
Allan of Hallam, L.
Allen of Kensington, L.
Alli, L.
Alton of Liverpool, L.
Amos, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashton of Upholland, B.
Bach, L.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beecham, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Berkeley, L.
Best, L.
Bichard, L.
Birt, L.
Blackstone, B.
Blower, B.
Blunkett, L.
Bonham-Carter of Yarnbury, B.
Boothroyd, B.
Bowles of Berkhamsted, B.
Bradley, L.
Bradshaw, L.
Brinton, B.
Brooke of Alverthorpe, L.
Brookeborough, V.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Campbell of Pittenweem, L.
Campbell of Surbiton, B.
Campbell-Savours, L.
Carlile of Berriew, L.
Carlisle, Bp.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chartres, L.
Chidgey, L.
Clancarty, E.
Clark of Calton, B.
Clark of Kilwinning, B.
Clark of Windermere, L.
Clement-Jones, L.
Cohen of Pimlico, B.
Collins of Highbury, L.
Colville of Culross, V.
Corston, B.
Coussins, B.
Cox, B.
Craig of Radley, L.
Crawley, B.
Cromwell, L.
Cunningham of Felling, L.
Davidson of Glen Clova, L.
Desai, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
D'Souza, B.
Dubs, L.
Eatwell, L.
Elder, L.
Falkner of Margravine, B.
Faulkner of Worcester, L.
Featherstone, B.
Filkin, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Freyberg, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasman, L.
Goddard of Stockport, L.
Golding, B.
Goldsmith, L.
Goudie, B.
Grantchester, L.
Greaves, L.
Green of Hurstpierpoint, L.
Greengross, B.
Greenway, L.
Grender, B.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hain, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harris of Haringey, L.
Haskel, L.
Haughey, L.
Haworth, L.
Hay of Ballyore, L.
Hayman of Ullock, B.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hennessy of Nympsfield, L.
Hilton of Eggardon, B.
Hollick, L.
Hollins, B.
Hope of Craighead, L.
Howarth of Newport, L.
Hoyle, L.
Hughes of Stretford, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hutton of Furness, L.
Hylton, L.
Inglewood, L.
Janke, B.
Jay of Paddington, B.
Jolly, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Judd, L.
Kakkar, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Kerslake, L.
Kidron, B.
Kilclooney, L.
Kingsmill, B.
Knight of Weymouth, L.
Kramer, B.
Laming, L.
Lane-Fox of Soho, B.
Lawrence of Clarendon, B.
Layard, L.
Lee of Trafford, L.
Leitch, L.
Lennie, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Low of Dalston, L.
Ludford, B.
Lytton, E.
Macdonald of River Glaven, L.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
Macpherson of Earl's Court, L.
Mair, L.
Mallalieu, B.
Mandelson, L.
Mann, L.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Massey of Darwen, B.
Maxton, L.
McAvoy, L.
McCrea of Magherafelt and Cookstown, L.
McDonagh, B.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Mendelsohn, L.
Monks, L.
Morgan of Drefelin, B.
Morgan of Huyton, B.
Morris of Yardley, B.
Morrow, L.
Murphy of Torfaen, L.
Murphy, B.
Neuberger, B.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
O'Loan, B.
Osamor, B.
Oxford, Bp.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parminter, B.
Patel of Bradford, L.
Pinnock, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Primarolo, B.
Prosser, B.
Quin, B.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Ravensdale, L.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rees of Ludlow, L.
Reid of Cardowan, L.
Rennard, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Rochester, Bp.
Rooker, L.
Rosser, L.
Rowe-Beddoe, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Sandwich, E.
Sawyer, L.
Scott of Needham Market, B.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Singh of Wimbledon, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Snape, L.
Soley, L.
Somerset, D.
Southwark, Bp.
Stair, E.
Stephen, L.
Stern, B.
Stevenson of Balmacara, L.
Stirrup, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taverne, L.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Teverson, L.
Thomas of Cwmgiedd, L.
Thomas of Gresford, L.
Thomas of Winchester, B.

Thornhill, B.
Thornton, B.
Thurso, V.
Tonge, B.
Tope, L.
Touhig, L.
Trevethin and Oaksey, L.
Triesman, L.
Tunnicliffe, L.
Turnberg, L.
Tyler of Enfield, B.
Tyler, L.
Uddin, B.
Vaux of Harrowden, L.
Walker of Aldringham, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Walney, L.
Warwick of Undercliffe, B.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watts, L.
Waverley, V.
Wellington, D.
West of Spithead, L.
Wheatcroft, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wills, L.
Wilson of Dinton, L.
Winston, L.
Wolf of Dulwich, B.
Wrigglesworth, L.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor of Hever, L.
Balfe, L.
Barran, B.
Barwell, L.
Bates, L.
Berridge, B.
Bethell, L.
Black of Brentwood, L.
Blackwell, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Bourne of Aberystwyth, L.
Boyce, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browning, B.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Cameron of Dillington, L.
Carey of Clifton, L.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Cavendish of Furness, L.
Cavendish of Little Venice, B.
Chalker of Wallasey, B.
Chisholm of Owlpen, B.
Choudrey, L.
Clarke of Nottingham, L.
Coe, L.
Colgrain, L.
Colwyn, L.
Cormack, L.
Courtown, E.
Couttie, B.
Cumberlege, B.
Davies of Gower, L.
De Mauley, L.
Deech, B.
Deighton, L.
Dobbs, L.
Duncan of Springbank, L.
Dunlop, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Erroll, E.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fairhead, B.
Fall, B.
Farmer, L.
Fellowes of West Stafford, L.
Fink, L.
Finkelstein, L.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Framlingham, L.
Freud, L.
Fullbrook, B.
Gadhia, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Garnier, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Gold, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Green of Deddington, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hogg, B.
Horam, L.
Houghton of Richmond, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Keen of Elie, L.
King of Bridgwater, L.
Kirkhope of Harrogate, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lothian, M.
Lucas, L.
Lupton, L.
Mackay of Clashfern, L.
Maginnis of Drumglass, L.
Mancroft, L.
Manzoor, B.
Marland, L.
Marlesford, L.
Maude of Horsham, L.
McColl of Dulwich, L.
McInnes of Kilwinning, L.
McLoughlin, L.
Meyer, B.
Mobarik, B.
Mone, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrissey, B.
Moylan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay , L.
Patel, L.
Patten, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Price, L.
Rana, L.
Randall of Uxbridge, L.
Ranger, L.
Rawlings, B.
Reay, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Risby, L.
Robathan, L.
Rock, B.
Rose of Monewden, L.
Rotherwick, L.
Saatchi, L.
Sanderson of Welton, B.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
Smith of Kelvin, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stowell of Beeston, B.
Strathclyde, L.
Stuart of Edgbaston, B.
Sugg, B.
Suri, L.
Swinfen, L.
Taylor of Holbeach, L.
Tebbit, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Ullswater, V.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Vinson, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Wyld, B.
Young of Cookham, L.
Young of Graffham, L.
Younger of Leckie, V.

5.34 pm

The Deputy Speaker (Lord Bates) (Con): We now come to the group consisting of Amendment 16. I remind noble Lords that Members other than the mover and the Minister may speak only once and that short questions of elucidation are discouraged. Anyone wishing to press the amendment to a Division should make that clear in the course of the debate.

Amendment 16

Moved by ***Baroness Lister of Burtersett***

16: After Clause 4, insert the following new Clause—

"Report on awareness and exercise of rights to British citizenship

(1) Within six months of the passing of this Act, the Secretary of State must lay before Parliament a report on the rights to British citizenship of relevant persons.

(2) The report under subsection (1) must provide—

(a) an assessment of the level of awareness among relevant persons of their rights to British citizenship ("the level of awareness") including the reasons for any lack of awareness among such persons;

(b) an assessment of the level of exercise by relevant persons of their rights to British citizenship ("the level of exercise") including the reasons for any failure to exercise these rights by such persons;

(c) an assessment of the impact upon either the level of awareness or the level of exercise of each of the following—

(i) any fee imposed by the Secretary of State in relation to the exercise of rights to British citizenship;

(ii) the requirement of good character under section 41A of the British Nationality Act 1981 for registration as a British citizen;

(iii) any guidance or policy of the Secretary of State in relation to the exercise of rights to British citizenship;

(iv) the practice of the Secretary of State in relation to data held by or accessible to the Secretary of State that may confirm a person's rights to British citizenship;

(v) the availability of legal aid in relation to rights to British citizenship;

(vi) the capacity or willingness of parents to assist relevant persons to exercise their rights to British citizenship;

(vii) the practice of local authorities in relation to rights to British citizenship; and

(viii) the practice of the family courts in relation to rights to British citizenship.

(3) The assessments required by subsection (2) must include—

(a) consideration of the circumstances of relevant persons who share a relevant protected characteristic for the purposes of section 149 of the Equality Act 2010; and

(b) comparison of the circumstances of relevant persons with other persons having the same rights to British citizenship.

(4) In making the assessments required under subsection (2), the Secretary of State must consult such persons as the Secretary of State considers appropriate, which shall include children and young persons with rights to British citizenship and organisations with expertise and experience in assisting and representing those children and young persons in connection with those rights.

(5) The report under subsection (1) shall include specific consideration of each of the following groups of relevant persons—

(a) children and young persons who are or have been a looked after child;

(b) children and young persons who are or have been in the criminal justice system;

(c) children and young people who are or have been the subject of a mental health assessment or mental health order;

(d) children who are not living in a household with two parents;

(e) children and young persons in poverty; and

(f) children and young persons who are victims of domestic abuse.

(6) For the purposes of this section—

"children and young persons" includes any person under the age of 25 years;

"domestic abuse" has the same meaning as in the Domestic Abuse Act 2020;

"in poverty" means living in a household whose income is less than 60 per cent of the median United Kingdom household income;

"in the criminal justice system" means having received a conviction or caution for the purposes of the Rehabilitation of Offenders Act 1974 (whether or not that conviction or caution has been or can be spent);

"mental health assessment" means an assessment of the person's mental health that was required by a court order or under legislation;

"mental health order" means an order of a court requiring a person's admission to a hospital or other institution for the purpose of treatment or care on account of that person's mental health;

"relevant persons" means persons who—

(a) immediately before the repeal of section 7 of the Immigration Act 1988 (exemption from requirement for leave to enter or remain for persons exercising EU rights etc.) under paragraph 1 of Schedule 1 to this Act, were entitled by virtue of that section to enter or remain in the United Kingdom without leave; and

(b) have at any time up to the passing of this Act had rights to British citizenship;

"rights to British citizenship" means rights of acquisition of British citizenship by birth, adoption or registration under the British Nationality Act 1981."

Member's explanatory statement

The amendment would require the Secretary of State to provide a report on factors affecting the awareness of and exercise of rights to British citizenship under the British Nationality Act 1981 by those affected by the repeal of section 7 of the Immigration Act 1988 (exemption from requirement for leave to enter or remain for persons exercising EU rights etc.).

Baroness Lister of Burtersett (Lab): My Lords, I had not originally intended to return to the question of children's right to citizenship on Report, as I had simply wanted to register our continuing concern in the context of this Bill, which will mean that many more children stand to be affected in future, adding a new urgency to the issue. However, the strength of feeling expressed from all Benches in Committee, combined with the disappointing response of the Minister, made me think again. I am grateful to all noble Lords who have added their name to the amendment, as well as to others who spoke in support in Committee. Once again, I thank the Project for the Registration of Children as British Citizens, of which I am a patron, and Amnesty International UK, for their help with the amendment and the work they do.

Colleagues pursuing this issue have now taken the name of "Terriers United"—united in our determination to achieve justice for a group of children in vulnerable circumstances: a group of children born in this country or who have spent most of their lives here and who have the right to British citizenship under the British Nationality Act 1981, but who have to register that right because of their parents' immigration status. In Committee, the right reverend Prelate the Bishop of Durham, who, as we have heard, cannot be here today, stated that

"the Home Office has no business erecting barriers, financial or otherwise, that prevent people registering as British citizens, particularly children, when those people have been granted that right by this Parliament".—[*Official Report*, 9/9/20; col. 857.]

This amendment would require a report from the Home Secretary on these barriers. I shall not go into all the details, as noble Lords can read them; nor do I

expect the Minister to do so—she might be relieved to hear—but it covers all the issues addressed in Committee: the role of local authorities, particularly with regard to looked-after children; awareness and information, with reference to which I ask whether the Minister is able to report back to us yet on her welcome commitment in Committee to raise with the Home Secretary our calls to raise awareness of citizenship; and, of course, the level of the fee, which was our main focus.

The amendment also covers other barriers such as the "good character" test, a discretionary test which can be used to prevent children aged 10 and over registering their right to citizenship even where they have had minimal contact with the criminal justice system, such as receiving a caution. The Select Committee on Citizenship and Civic Engagement, of which I was a member, raised concerns about this, and in particular the age from which it is applied.

The amendment calls for specific consideration of a number of groups of children and young people who face particularly vulnerable circumstances. Again without going into detail, I note that proposed new subsection (3)(a), which covers those with protected characteristics under the Equality Act, would include Roma children, who, according to the European Children's Rights Unit, are more likely than other EU children in this country to be entitled to British citizenship and to be economically disadvantaged.

I am aware that the Chief Inspector of Borders and Immigration published a report on fees last year, but this ranged much more widely and did not cover other barriers to citizenship registration. That said, the inspector raised a number of concerns about children's citizenship fees, reflecting the volume of evidence received from stakeholders. He recommended a new, wider public consultation on charges generally. Although this recommendation was not accepted, the Home Office did accept that

"consultation in specific areas could be useful to inform future policy development."

I suggest that this is just such an area, and that the serious implications of the end of free movement for the children of EEA/Swiss nationals with a right to register as citizens, detailed in Committee, make it a matter for urgent policy development.

The amendment provides a vehicle for such a consultation. It requires that such consultation includes children and young people affected, and the organisations that assist and represent them—in line with recommendation 8 of the *Windrush Lessons Learned Review* report, which states:

"The Home Office should take steps to understand the groups and communities that its policies affect through improved engagement"

with communities and civil society, and that officials should be expected

"to seek out a diverse range of voices".

I welcome the Home Secretary's commitment to such an approach in last week's Statement and comprehensive improvement plan.

In Committee, I and other noble terrier Lords from all Benches made a principled case relating primarily to the level of the fee and the position of looked-after children. It was premised on the importance of citizenship to belonging, security, identity, inclusion and integration. In support, we quoted from a recent High Court judgment that deemed the level of the fee unlawful because it had been set without regard to the best interests of the child. The judgment underlined why citizenship is important and how the inability of many children to exercise their right to register as citizens because of the fee causes many children born in the UK to

"feel alienated, excluded, isolated, second best, insecure and not fully assimilated into the culture and social fabric of the UK".

It is a matter of regret that the Home Office is appealing that judgment, to be heard next week. The right reverend Prelate the Bishop of Durham has described the fee as "prohibitive and regressive", "indefensible" and "iniquitous"—in short, "simply unacceptable".

In her response, the Minister brought no arguments of principle to the table. There were instead three planks to her case—rotten planks, I suggest. The first plank was purely technical, concerning drafting points stemming from the requirement that the amendment was confined to EEA/Swiss nationals in order to be in scope, thereby, she argued, creating a two-tier system. Of course, as other noble Lords have pointed out with reference to other amendments, the solution to that lay in the Government's own hands. In any case, today's amendment sidesteps that problem by simply requiring a report; moreover, it would require that the report considered this group of children in relation to the circumstances of other children in the same situation so as to avoid any suggestion of a two-tier system.

The central plank was financial: that the fee of £1,012, which is £640 more than the Home Office estimate of the administrative cost, is necessary to provide the resources required to operate the Borders, Immigration and Citizenship System. I have two responses to that: first, a right conferred by Parliament to ensure that children and young people connected to the UK should have the security of citizenship should not be undermined in the interests of the wider finances of the overall BICS; and, secondly, in conflating the cost of registering citizenship with that of the costs of the borders and immigration system, and at an aggregate level, the Minister evaded the key question of the mark-up for citizenship registration at the level of the individual. She glossed over how that money is being used to cross-subsidise borders and immigration operations that have nothing to do with citizenship registration. In doing so, the Home Office is once more committing the fundamental category error of treating the right to British citizenship as being part of the immigration system. It is this category error that lies at the heart of why so many British young people continue to grow up effectively excluded from the citizenship that is theirs by right under the British Nationality Act.

The third plank rests on another category error—that leave to remain represents the equivalence of citizenship. So while it was welcome that the Minister did not try to argue that citizenship is not important, it was in fact implicit in her response to the attempt to exempt looked-after children from the registration fee. Access to limited and indefinite leave to remain is no substitute for the security of citizenship. What this means for

[Baroness Lister of Burtersett]
children is brought home by a young woman brought up in the UK since the age of two who was quoted by Ian Birrell in a recent article for the *i* newspaper:

"It puts you in a very bad place with anxiety and depression. Even though I'm a legal resident, it feels like they can take it away any time."

I finished my speech in Committee by quoting a former Home Secretary, Sajid Javid, who described the fee as "huge". According to a *Times* report dated 13 August 2019, Priti Patel raised concerns about the level of the fee just two weeks before becoming Home Secretary. She had told Citizens UK that she would contact Home Office Ministers over the issue and that she understood the

"concerns surrounding this sensitive matter".

Towards the end of Committee, the Minister kindly agreed to relay to the Home Secretary the request from the noble Lord, Lord Alton, for a meeting with Peers who had supported the amendment on this question. I understand that the Home Secretary's diary did not permit such a meeting now but we can be patient, so I repeat that request now for whenever the Home Secretary's diary does permit, particularly in light of her known concern.

I hope too that the Minister will be able to accept our amendment, or a version of it, at Third Reading as providing a way forward on this sensitive and vexed issue, as it will not go away. Otherwise, Terriers United gives notice that we will be snapping at the Home Office's heels until we achieve justice for this vulnerable group of children. I beg to move.

5.45 pm

Lord Alton of Liverpool (CB): My Lords, I support Amendment 16, to which I am a signatory. I wholeheartedly endorse the remarks of the noble Baroness, Lady Lister, who has become the terrier-in-chief on this issue, and I am grateful to the Minister for making time to discuss this issue with me last Thursday in advance of today's debate.

Amendment 16, as we have just heard in the noble Baroness's speech, is modest in its aim, merely requiring the Secretary of State to consult and report to the House upon both awareness of British citizenship and the exercise of the rights that such citizenship confers. I said a lot about citizenship in Committee and why it is a completely separate matter from issues such as immigration and naturalisation. I will not rehearse all those arguments all over again today; suffice it to say that the amendment does nothing to affect those contested issues.

This thoughtful, moderate, reasonable new amendment simply tries to take the debate forward in a constructive and helpful way. It is also in sync and compatible with the rights to British citizenship that were enacted in Part 1 of the British Nationality Act 1981. I shall summarise what the amendment does. Its new clause contains six subsections. Subsection (1) requires the Secretary of State to lay a report. The people who report concerns are the people defined as "relevant persons" in subsection (6)—that is, in summary, people with rights to British citizenship who are losing EU free movement rights in the UK.

Subsection (2) sets out what that report must contain. It must contain an assessment by the Secretary of State of two matters: the level of awareness among people of their rights to British citizenship and the level of exercise of these rights. In making those assessments, the Secretary of State must have regard to several factors identified within subsection (2)(c), each of which concerns barriers to people being able to exercise their statutory rights to British citizenship.

Subsection (3) requires the Secretary of State to pay particular regard to her equalities duties in producing this report and to make some comparison of the situation of two groups of people with rights to British citizenship: the group of people with rights to British citizenship who are losing EU free movement rights in the UK—this group is the focus of the report required by the amendment—and the group of people with rights to British citizenship who do not have EU free movement rights.

Subsection (4) requires the Secretary of State to undertake consultation in the preparation of her report. Subsection (5) requires the Secretary of State to give particular attention to the situation of various groups of particularly marginalised children and young people, referred to by the noble Baroness, Lady Lister; Appendix B provides some case studies relating to those groups of children and young people, similar to those outlined by the noble Baroness; and Subsection (6), which contains definitions, defines children and young people as people under the age of 25.

I shall unpack the amendment in a little more detail. Subsection (2)(c)(i) touches on the impact that fees can have on the rights of citizenship. I appreciate that the Minister cannot comment on the court case in which the High Court found against the Home Office. In earlier proceedings, I mentioned that I had given a witness statement. The Royal Courts of Justice will hear the department's appeal on 5-7 October, and I understand that the case will be livestreamed.

However, what the Minister can comment on is a reply that she gave me to a Written Question on 10 September. I had asked her about the costs of mounting an appeal, and she replied:

"The information that you have requested on legal and administrative costs is not available",

and added that

"we are not able to provide an accurate assessment of legal costs."

I will repeat that:

"we are not able to provide an accurate assessment of legal costs."

This inability to establish what the legal taximeter is clocking up contrasts starkly with the ability of the Home Office to work out how much it costs to operate this system of fee collection, and which, at over £1,000, the former Home Secretary Sajid Javid rightly said is a prohibitively expensive system. Why is it that we are able to work out how much we can generate in fees above the administrative costs, but cannot work out the costs of fighting legal actions which simply compound one mistaken decision with another? What other litigant would embark on a major legal action without any idea of what it could cost? I am sure that the TaxPayers' Alliance, which keeps a weather eye on how taxpayers' money is used, will have something to say about that.

Even more serious, however, is the principle of putting a major financial roadblock in the path of those who need to feel that they belong, that they are part of the web and weave of British society, and that they are true citizens of what is a truly great country. The importance of knowing you belong is something that I know is close to the heart of the Minister; we are at one on that. This amendment would seek an examination of such barriers.

Throughout preceding debates, noble Lords have repeatedly pressed the Government about children's rights, especially those of looked-after children. Surely their vulnerable and special position alone should justify at least an examination of their special circumstances. Let us recall, as the noble Baroness, Lady Lister, has done, that the High Court said that fees cause many children caught up in this fee-generating arrangement to feel

"alienated, excluded, isolated, 'second best', insecure and not fully assimilated into the culture and social fabric of the UK".

We have a duty to address the implications of those words.

To that group I would add another, which is covered in proposed new subsection 3(a) of the amendment: those with protected characteristics under the Equality Act 2010. The House will recall that in Committee I raised the position of the Roma—something to which the noble Baroness also referred in her remarks. I would especially draw the Minister's attention to the position of Roma children, who have been cited by the European Children's Rights Unit as being especially disadvantaged and at risk.

I truly hope that the Minister will feel able to accept this amendment. I am sure that even if, in the first instance, it was confined to the most at-risk categories, it would represent a good start. Seeking a consultation and a review is not an unreasonable ask. I commend this amendment to the House.

Baroness Altmann (Con) [V]: My Lords, I have added my name to this amendment. I congratulate the noble Baroness, Lady Lister, on her persistence and dedication to this issue. Her passionate advocacy, particularly for vulnerable children, has always been impressive. I share her concerns.

I must admit that I truly cannot understand why the Government are resisting this extremely modest amendment. Indeed, the problem has been going on for so long, and this amendment is so reasonable in wanting to encourage the Government to agree at least to look at this issue carefully, seriously and thoroughly, that it would seem almost impossible to reject it. Perhaps we will hear from my noble friend the Minister that the Government are indeed minded to look at this more seriously and accept it after all.

The wording could clearly have been much stronger. The strength of feeling across the House at previous stages of the Bill has been clear. Children who have been born here and have the right to citizenship but then have to register to obtain this right, perhaps having to pay significant amounts that they cannot afford, seems to undermine some of the principles on which we base our country and citizenship.

The noble Baroness, Lady Lister, and the noble Lord, Lord Alton, have described the details of this lengthy amendment. I will not repeat them, but the principles referred to are so important to many individuals in this country, and to their rights as granted to them by Parliament. I find it puzzling, as well as disappointing, to see the Government so far refusing to agree to this.

Indeed, the Public Accounts Committee in the other place, in its report laid last month entitled *Immigration Enforcement*, has criticised the inadequacy of information available to my noble friend's department and called for an urgent report to be carried out. Accepting this amendment could indeed assist the Government in that regard. For example, in one of its recommendations, the Public Accounts Committee says:

"Building on its response to the Windrush lessons learned review, the department should mobilise its evidence base and evaluations to challenge its own assumptions and beliefs about the user experience within the immigration system."

That is part of what this amendment is attempting to do.

If my noble friend the Minister could accept the thrust of this amendment, and announce this at Third Reading, I believe that many of us on these Benches would be delighted and that there would be support from every side of the House.

Baroness Whitaker (Lab): My Lords, the Home Office funded a project in 2019 which led to findings that many migrant children from the European Union who were eligible to apply for settlement status were also eligible to register as British. It was found especially that Roma children are both more likely to be eligible than many other EEA or Swiss migrants and more disadvantaged by Brexit; for instance, in supplying the correct documentary evidence, and given that the information on the need to register before the age of 18 is not effectively transmitted. The noble Lord, Lord Alton, referred to this report. The disadvantage that it exposes needs to be redressed. Is the Minister aware of the University of Liverpool study which sets out the problems in detail?

As my noble friend Lady Lister of Burtersett said in her powerful speech, an important point is that the scale of the fees has deterred many eligible applicants. As she and the noble Lord, Lord Alton, indicated, the High Court agreed that these costs were so disproportionate and prohibitive as to constitute a breach by the Secretary of State of her duty to safeguard and promote the welfare of children and undermined the objective of the British Nationality Act. I agree with my noble friend that it is really unfortunate that the Government are appealing this decision. The hearing is set for 6 October to 7 October, so a precipitate provision should not be put forward by the Government.

Finally, in addition, there are Roma people who were granted asylum and ILR status before their countries joined the European Union but who do not have documentary evidence of this. Importantly, neither do their children, so the children are also at risk of deportation. This amendment would go far to rectify the injustice.

Lord Judd (Lab) [V]: My Lords, citizenship is something to be treasured—and something, of course, that all those entitled to it should be able to have. If there are people who, for one reason or another, have not understood their rights and not taken the necessary steps to secure them,

[LORD JUDD]
we ought to be proactive in society in bringing those people on board. There are, as we have heard already in this debate, a considerable number of people in this predicament.

We also have other long-standing communities in our midst for whom there is a real issue about understanding citizenship. I think of the Roma, Travellers and Gypsies, for whom we do not take proper responsibility. Too many people have emotional attitudes towards them. We do not see them as fellow citizens and bring them, through citizenship, into communication on an equal footing with us. This is a very important, decent and humane amendment, which I hope has widespread support.

6 pm

Lord Naseby (Con): My Lords, I will not repeat any of the contribution from the noble Baroness, Lady Lister. She knows that I greatly respect her analysis on most things, and on this occasion it is substantial and well worth listening to. My noble friend Lord Alton, who I have respected over many years, has also done a great job.

As I said the other evening, it was my privilege to sit on the Public Accounts Committee for 12 years and I was the senior spokesman for my party for four of those. Its reports are not done on a whim. They arise from the Auditor-General when there is clearly a problem. That committee does not waste its time; it asks questions in depth. The reports that come out do not necessarily agree with the Auditor-General. On occasions, they completely disagree. I have only had a quick read of this report, but it would seem that the committee believes that there is a real problem. That is, in itself, substantial.

I have two granddaughters; their mother is a widow. As I read the papers on the train coming down, I wondered what would happen if they were in this difficult situation. One is taking A-levels and the other doing GCSEs. They are intelligent young women, as young people today are. They take a great interest in public affairs. It would be deeply upsetting if they found themselves having to think about their ownership when they are supposed to be studying. The same must apply to those at university. They are going to university at 18 and a fair number of courses are now four years, so they would be getting close to the cut-off point of 25. This is a problem area. Finally, costing over £1,000 is a bit rich. I have to help my family a bit, understandably, but £1,000 a child—£2,000—is quite a lot of money for any household.

I hope that my noble friend on the Front Bench can give some encouraging words. I understand the challenges that are faced—I am in the middle, in a sense—but this amendment needs serious consideration.

Baroness Primarolo (Lab) [V]: My Lords, I will add a couple of comments to this very important debate. First, I congratulate my noble friend Lady Lister. She has pursued this vital subject with great tenacity and ensured with great clarity that the main arguments are put again on the Floor of the House. I know that the Minister will be listening carefully to all the points that have been made.

As my noble friend said, this is a modest amendment, which seeks action from the Government to ensure that the rights that were conveyed by the British Nationality Act 1981 are open and accessible to those who are entitled to them. When reading some of the comments that Ministers made during the passage of the British Nationality Bill, it is fascinating to see the clarity with which they saw the entitlement to citizenship which has now been so clouded and had so many barriers put in its way, as my noble friend Lady Lister said. For example, the Minister of State for the Home Office who took that Bill through said that

"as I think the House knows by now, what we are looking for in the creation of our new scheme of British citizenship is real connection. We are looking for citizens who have a real connection with the United Kingdom."—[*Official Report*, Commons, 3/6/1981; cols. 979-980.]

He went on to say that it is "extremely important that those who grow up in this country should have as strong a sense of security as possible". Conveying the entitlement to citizenship was central to that.

It was not Parliament's intention at the time that anyone, least of all children, entitled to British citizenship, should be content, as a substitute, with either limited or indefinite leave to remain. That could leave them liable to immigration control and powers from which it was intended they should be free and would not fulfil the clear intention that Parliament wanted to establish in providing for the entitlement—the right—to British citizenship. It is time to make sure that we have a clear route through to delivering that entitlement, that right, to those in this country who currently cannot get access to it.

The requirements of this amendment, modest as they are, seek to remove a two-tier system, the prohibitive fees and the lack of information which leaves people unable to access their rights. It is time that this House addresses this and I sincerely hope that the Minister will be able to give a clear indication today about how we are going to honour the word given to these children in the British Nationality Act 1981 and to deliver access to that right, instead of preventing them achieving it.

I will support the amendment if it goes to a vote, but I sincerely hope that the Minister will be able to explain to the House how the Government will deliver.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I declare my membership of the Roma, Gypsy and Traveller APPG which, as the noble Baroness, Lady Whitaker, said, represents some of the children who may be particularly affected by our current discriminatory system, which is effectively impossible to navigate. The noble Baroness, Lady Lister, made a hugely powerful introduction, so I will be brief in offering the Green group's support for this amendment. I add my hope to that of many noble Lords that the Government will the see the sense of it and agree to adopt it. We are talking about rights that people are entitled to. We cannot allow people to be excluded from them by lack of knowledge, lack of funds to access them or lack of access to the systems needed to exercise them. Keeping that exclusion would be a profound injustice.

I think I have to declare a personal stake in this issue. I chose to become British, as I chose, before that, to live as an immigrant in Thailand for a number

of years. But I was able to make both moves very easily, reflecting my relatively privileged background. In Thailand, the Australian state, through Australian volunteers abroad, sorted out my paperwork, then my employer did. It was then through grandparent rights that I was able to come to Britain. The family story is that my grandmother came back to the UK to have a baby. Then, after a period of residence, I was easily able to secure citizenship, back when the price of a British passport was close to the actual cost of administering it, in the early 1990s, which was not really that long ago.

It was only recently, when I read the excellent book, *Bordering Britain: Law, Race and Empire*, by Nadine El-Enany, that I was educated about the racism behind that arrangement, the grandparent right. There is much that should be tackled in our law to clear the taint of racism, colonialism and expropriation that remains central. But after Windrush, surely we can do something to clean up the structure of our systems—modest changes, as noble Lord after noble Lord, including from the Minister's side of the House, has said before me—particularly systems that deny children and young people their right to security and a stable place in the world. Equality before the law is a foundational principle, but the letter of the law is not enough, as Windrush has demonstrated. The practice of government has to be fair and non-discriminatory.

Lord Russell of Liverpool (CB): I declare my interest as a governor of the children's charity, Coram. I rise to speak strongly in support of this amendment.

In Committee, the noble Baroness, Lady Lister, and her supporters were praised for their "terrier-like" characteristics. My initial research into terriers slightly alarmed me, because the original animal, which, in 1815, inspired the creation of the canine family of terriers, was called, believe it or not, Trump. You heard it here. I became less alarmed when I read Johannes Caius's 1576 description of dogs with similar characteristics, which he praised for their

"insane dedication to chasing creatures bigger and stronger than themselves."

The Minister knows what she is up against.

The Minister may recall that at Second Reading I spoke about the paramount importance of accurate, reliable and timely data in making any key policy and process decisions. I think she agrees with this.

I am supporting this amendment because I am persuaded by several key pieces of evidence. As a terrier, I doggedly follow the scent—or, in this case, the evidence. The first piece of evidence comes from the PRCBC, of which the noble Baroness is a patron, and which repeatedly encounters children who fall into two particular categories. The first category is that of those born in the UK, but not born British citizens because their parent, also born in the UK, had been unaware of, or was unable to exercise, their own right to register as a British citizen. The second category is that of children who are British citizens by birth, who were taken into care or adopted, for whom nobody has acted to confirm their right to citizenship, leaving them unable to establish that they are already legally entitled to British citizenship. These two categories of children are being treated as though they are not British but mere guests in this country, as a result of which they run the risk of effective loss of their citizenship rights. This is both morally and legally wrong and is certainly not what Parliament intended, as several noble Lords have said.

6.15 pm

The second piece of evidence concerns the Windrush inquiry. I listened, this morning, to an Institute for Government podcast from April, in which Wendy Williams discussed her inquiry. I wish to draw attention to five specific cultural factors which she discerned had led the Home Office to make a series of repeated mistakes: disbelief—that is, placing ever higher barriers of required evidence to discourage applicants, based on no clear policy or legal requirement; carelessness with both process and record-keeping; ignorance of the law; thoughtlessness about the experience of those affected; and lastly, blindness and deafness to dissenting voices—a refusal to take notice of any voice regarded as not being serious.

Asked how she decided how to approach her highly sensitive task, Ms Williams said, "I started by speaking to those who had been affected. I based my approach on their experiences. This pointed me in the right direction. This was my guiding principle; I followed the evidence."

The third piece of evidence comes from last month's excoriating report from the House of Commons Public Accounts Committee, referred to by the noble Lord, Lord Naseby, a few moments ago, on immigration enforcement. In the summary, right at the front, it noted that, despite many years of discussion with the Home Office on immigration enforcement,

"we remain concerned by how little evidence the Home Office … has with which to inform that debate. It is disappointing that … the Department is still not sufficiently curious about the impact of its actions and the underlying reasons for the challenges it faces. We are concerned that if the Department does not make decisions based on evidence, it instead risks making them on anecdote, assumption and prejudice."

How about that for a school report? How comfortable would noble Lords feel about such an institution taking decisions about your children's fundamental citizenship rights?

Amendment 16 gives the Government the opportunity to learn from the examples I have given. It is clear from the evidence of the experiences of those children caught up in this Kafkaesque situation that the department does not fully understand their situation and their legal rights, as defined by Acts of Parliament. I think all noble Lords would agree that the review conducted by Wendy Williams into the Windrush scandal is a model of its kind. I appeal to the Minister, her ministerial colleagues and the Government for all of us to acknowledge and learn from our failings.

Please, like the terrier, can we follow the evidence and the very successful, balanced approach of Wendy Williams and launch an inquiry to ensure that we completely understand the situation? Above all, please can we remember that we are dealing with children? Amendment 16, if accepted, is an eminently sensible "get out of jail" card. I look forward to the Minister's reply in the sure knowledge that she will display none of the five departmental cultural traits highlighted by Wendy Williams.

Baroness Hamwee (LD): My Lords, my name is also to this amendment on behalf of these Benches, and I am glad to have the opportunity again to support our head terrier and add my yap to the debate.

Rights are significant, but they are of no use if you do not know you have them and do not appreciate that because nobody has told you about them. It is the state, of course, that should. Something less than citizenship is not the same as citizenship. An immigration status is not as good as citizenship for all sorts of reasons, some of which we rehearsed in Committee, and some of which have been mentioned today. I am glad so many noble Lords have talked to the position of the Roma people.

Those with rights should be encouraged to exercise them, not discouraged. It would be a reassurance to those waiting to see the hard evidence of the lessons learned from the Windrush inquiry if the Minister could report progress. Like the noble Lord, I was impressed by listening to Wendy Williams. I heard that event some months ago, when I had a little more energy to log on to online events. I was impressed by her observations about cultural issues.

I also agree with the committee, which stressed the importance of curiosity. It is necessary to stand in other people's shoes to be able to respond properly to a problem.

However, given how much we have to get through today, I will not say more than this: what Parliament intended to put into law in 1981 should be observed. The report, as proposed by the noble Baroness, would be an important step towards this.

Lord Kennedy of Southwark (Lab Co-op) [V]: My Lords, I fully support my noble friend Lady Lister of Burtersett and others, and endorse her comments on the rights of children to register as British citizens and exercise their rights.

I find it shocking that the Government have not given way on the level of the fee and the particular problem of looked-after children. Frankly, it beggars belief that we have not made progress on this during consideration of the Bill. The fact that the previous and present Home Secretaries have raised concerns about the level of the fee should mean that we have some progress. The Home Secretary is the one person who can do something about this, but it appears she will not.

Like the noble Lord, Lord Russell of Liverpool, I am persuaded by the evidence and the contributions of many noble Lords in this debate. Let us be clear: these children are entitled to British citizenship. I always thought that British values were those of decency, fair play and justice, but I am afraid none of these is on display here today. What is on display is meanness, unfairness and a failure to act justly. It is an unjust position which has no place in modern Britain. As the noble Baroness, Lady Hamwee, said, having rights is no good if no one tells you that you have them and you are not encouraged to take them up.

Points were made previously about why the amendment could not be accepted, such as the technical point that this is only about EEA and Swiss nationals. Unfortunately, it is; that is because of the scope of the Bill. On the question of finances, how the Government need a fee to cover the costs of the process and ensure the effective running of the department in this area, they cannot have it both ways; for many years, like many other noble Lords, I have been arguing with the Ministry of Housing, Communities and Local Government that all we want is fees to cover the costs of planning. We were repeatedly told that we could not have it and that planning has to be subsidised by the council tax payer. I am afraid you just cannot have that. We do this either everywhere or nowhere at all. On settled status as opposed to citizenship, there is no question which is the better status. If you are entitled to citizenship, you should be able to get it.

The noble Lord, Lord Alton of Liverpool, set out the wholly reasonable nature of this amendment. It is asking only for the Home Secretary to lay before this House and the other place a report—nothing else, just a report—which must address the issues as set out in the amendment. I really do not understand why the Government are resisting this. As the noble Lord said, surely with the vulnerable position of these children, particularly looked-after and Roma children, no one could suggest that they are not disadvantaged people who need our help and consideration.

The Government's reaction to this amendment is more than just disappointing; it is very worrying. We can discuss the hostile environment and Windrush, we can hear the apologies and the assurances they will not happen again, but having heard the Home Secretary's speech yesterday, I for one fear that no lessons have been learned and that, instead, we are prepared to let these children be at risk. That is unacceptable.

I implore the noble Baroness, Lady Williams of Trafford, for whom I have huge respect—I have worked with her closely many times—at least to give a commitment to the House that she will go away and explain to the Home Secretary the strength of feeling across the House and hopefully, on this one issue, be able to come back on Third Reading having accepted what people are asking for.

Baroness Williams of Trafford (Con): I thank the noble Baroness, Lady Lister, for tabling her amendment. I note that it takes a slightly different approach to those previously discussed in Committee, this time concentrating on an initial assessment of how aware the affected groups are of their citizenship rights and, equally, their ability to exercise them. It specifically seeks to highlight those aged under 25 with potential vulnerabilities as warranting particular attention.

Several noble Lords have referred to the Roma community as particularly vulnerable in terms of ensuring their status, certainly throughout the transition period and going into the future. I am very mindful of that. Noble Lords will recall the various voluntary sector organisations I have spoken about which are there specifically and precisely to provide tailored help to those who might slip through the net in terms of their status going forward.

The noble Lord, Lord Russell of Liverpool, talked about Wendy Williams; the noble Baroness, Lady Hamwee, asked me where we were up to in taking forward some of the recommendations. She may

or may not know that last week the Home Secretary set out a comprehensive plan to take forward the recommendations and reaffirmed her plan for cultural shift in the Home Office.

I know that the amendment does not fit the Bill, if you like, but that does not mean we cannot discuss the various things that noble Lords have raised. I gave an assurance last time that I would write to the Home Secretary to consider what might be required in this area and ensure that she is aware of this House's feelings. I am taking this forward, but it will take some time to consider; the level of detail in this amendment will be a clear guide to the areas and individuals which the noble Baroness feels require the most support. I am very happy to meet her to discuss these matters. I have already confirmed that I would like to meet the noble Lord, Lord Alton.

A number of noble Lords mentioned things such as "belonging", which we talked about the other day, and people falling through the gaps and feeling that they really do not belong in society. I completely acknowledge the points that the noble Baroness makes about citizenship costs; I will not tell her that you do not need citizenship to live here, because your Lordships will not accept that sort of answer. I would like and intend to meet with the noble Lord, Lord Alton, and the noble Baroness to take forward some of these broader issues around societal cohesion, in a way, and integration.

I hope that there can be some reassurance that part of the same commitment made by the Home Secretary was to ensure that nationality laws are fit for the modern day. This is an ongoing process. We have made sure that the process is easier and simpler by moving application forms online, but I know that that is not the point that the noble Baroness is getting at. In terms of accessibility, it is easier, but we are talking about a wider point than just the amendment.

The noble Lord, Lord Alton, challenges me on the costs of mounting appeals; obviously, I will not talk about the one in hand. I think that, in asylum, immigration and all sorts of areas, the lawyers are making an awful lot of money in these processes.

I will welcome the discussion that we are going to have. I hope that the noble Baroness will withdraw her amendment and, with that, I will sit down.

6.30 pm

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): I have received no requests to speak after the Minister, so I call the noble Baroness, Lady Lister of Burtersett.

Baroness Lister of Burtersett (Lab): I thank all noble Lords who spoke in support of the amendment, from right across the House, and who very much strengthened the case. Some important points were made and I pick out just two. One is that, over and over, people emphasised the modesty and reasonableness of the amendment and pointed out how carrying out a review like this would be very much in the spirit of both the lessons learned review and the recent Public Accounts Committee report, helping to provide the evidence that it said was lacking. Here—just thinking about the Trump terrier—we are not talking about fake evidence; we are talking about real evidence, based on people's experiences. There is a sort of incomprehension that the Government cannot accept this modest, reasonable amendment.

That said, I welcome the Minister's tone and her acknowledgment that there is absolutely no point in trotting out the arguments that have been trotted out up to now, because we simply will not accept them in this House. I feel that we have made progress on that score. I welcome her willingness to talk about it further and I welcome the fact that she has committed to take it back to the Home Secretary. The point about the review that we have asked for is that it requires a report to come back to Parliament. We do not have a clear channel that will ensure that we have an opportunity to come back to this, to say, "Okay, the Minister has agreed to look at this further and to discuss it with the Home Secretary"—I would be very happy to give way if the Minister could say in what way we can then hold her to account in this House on that.

Baroness Williams of Trafford (Con): Noble Lords never fall short in holding me to account. I would quite like to do a sort of task-and-finish activity, but one of the ways I can take this forward is to think about how we can then bring that back to the House, if that is sufficient for the noble Baroness.

Baroness Lister of Burtersett (Lab): Thank you. That is very welcome. While obviously I am disappointed that the amendment has not been accepted, I feel that we have made progress this evening. That is partly because of the strength of support from noble Lords across this House. I am very grateful to them, I am grateful to the Minister and I beg leave to withdraw the amendment.

Amendment 16 withdrawn.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): We now come to the group beginning with Amendment 17. I remind noble Lords that Members other than the mover of the amendment and the Minister may speak only once and that short questions of elucidation are discouraged. Anyone wishing to press the lead amendment or any other amendment in the group to a Division should make that clear during the debate.

Amendment 17

Moved by ***The Earl of Clancarty***

17: After Clause 4, insert the following new Clause—

"Duty to report on the arrangements for visitors for business purposes

(1) The Secretary of State must, within six months of this Act coming into force, publish, and lay before each House of Parliament, a report evaluating the effects of this Act on the arrangements for temporary entry and stay of EEA and Swiss nationals for business purposes.

(2) That report must include consideration of—

(a) the qualification requirements for a short-term business visitor;

(b) the activities that can be undertaken by a short-term business visitor; and

(c) for purposes of comparison, the reciprocal arrangements for UK nationals travelling to the EEA and Switzerland for business purposes."

Member's explanatory statement

This new Clause would require the Government to consider the requirements of short-term EEA and Swiss national visitors for business purposes.

The Earl of Clancarty (CB): My Lords, in moving Amendment 17, I will also speak to Amendment 25 in my name. I am grateful for the support of the noble Lord, Lord Patel, and the noble Baronesses, Lady Hamwee and Lady Bull, on Amendment 25. The amendments ask that impact assessments be carried out on the effect of the loss of free movement on areas of work, research and artistic and cultural activities in both the UK and Europe.

I will speak briefly to Amendment 17. Many of the problems and threats to livelihoods faced by the creative services—I will come on to them—are also faced by other services, which is the main reason why I tabled this amendment. I realise in retrospect that I should perhaps have been more to the point and included "services" in the amendment's wording, but I do not see why, when one thinks of business trips abroad, the provision of services that depend on mobility should not also come directly to mind—as much as sales, for example. However, it is services—our major industrial sector—that are being forgotten by not only the Government but the media.

Last week, I attended an online meeting of a group that has been set up to address the problems facing a number of British workers, some of whom are based in the UK, some of whom are based in Europe and all of whom are self-employed and work for European clients in differing professional areas, such as IT and translation. Some of their concerns are certainly outside the scope of this Bill and will be better addressed tomorrow in the debate on the Trade Bill, but others relate directly to the loss of free movement and parallel the concerns of those in the arts, including on the need to move at short notice between the UK and the EU and between EU countries without red tape. A major worry relates to the lack of information and guidance, as well as uncertainty about what they should be doing to protect their livelihoods.

The credit for the composite Amendment 25 must go to the noble Lords, Lord Patel and Lord Clement-Jones, for their Committee stage templates, as well as to the noble Lord, Lord Hunt of Kings Heath, for eloquently moving the research and innovation amendment in Committee. I was minded to press Amendment 25 to a vote, but I will not do so, although I will listen carefully to the Minister's reply.

Amendment 25 concerns matters of considerable importance to many outside this House and for the country as a whole, with regard to research, as leading scientists pointed out in a letter to the Prime Minister in June. The amendment is important because it is about the future of science and the arts. It is about the future of research and creativity. As much as it is about people's livelihoods, it is also about the co-operation and the building of relationships that we have seen over decades between ourselves and the rest of Europe and which so many people working in universities, research bodies, the arts and the media do not want to see endangered more than they already have been.

This is not scaremongering. The Royal Society observes that

"the UK is now a less attractive destination for top international science talent—with 35% fewer scientists coming to the UK through key schemes".

Yet we benefit from such expertise from Europe as much as Europe benefits from the expertise that we can offer it. The loss of free movement puts a significant part of this exchange of ideas and exchange of culture on our continent at tremendous risk. Ultimately, there will be an economic effect and an effect on our standing in the world.

In Committee, the noble Lord, Lord Hunt, concentrated his remarks on the life sciences and medical research. He said:

"It is this mixture of domestic and international talent that supports our thriving research environment."—[*Official Report*, 9/9/20; col. 872.]

This is also the experience of the arts: of the visual arts, the area I most know, of music, dance, theatre and many of the other creative industries, including video games. The people we need who will enrich these industries and innovate are those who are as yet unknown. The salaries of many working in the creative industries, a large number of whom are freelancers, do not reflect the enormous contribution that the creative industries make financially to this country, which the DCMS estimated in June at £112 billion a year. These artists are the ones who make it happen. Many of them will not be earning anything like £25,600 a year—certainly not near the beginning of their careers.

There is also the huge concern about short-term work-related visits to this country for artists, which we discussed in Committee and, importantly, for UK artists visiting Europe, with the music industry in particular having an especially large number of concerns about the loss of free movement, including over touring. I will not repeat the detail of what I said on this in Committee, but I want to make one additional point. Free movement for the arts has come to something of a halt as a result of Covid, but it is instructive that interested organisations, despite the big hit that the arts are taking over Covid, in no way minimise the effects of Brexit as they understand it, even in the current crisis of the pandemic. We should not lose sight of that. In last year's survey of 2,000 members, the Incorporated Society of Musicians found that 35% of respondents spent at least one month per year working in the EU. Europe is a significant source of work in the arts, and that loss will not be compensated for elsewhere.

We have got to the stage when concerns expressed urgently need to be addressed by the Government. In Committee the noble Lord, Lord Parkinson of Whitley Bay, mentioned the impact assessment accompanying the Bill, which liberally references the reporting of the Migration Advisory Committee, but I say to the noble Baroness that the concerns raised in these debates are hardly touched on in that document. My question to her is: how will the Government monitor the impact of the Bill on these areas and publish findings? It is clear that there is already a significant effect—and that in anticipation of the loss of free movement—in terms of both the loss of opportunity and of our confidence for the future. We need to know not just whether things

are going right or wrong but how the system needs to be improved to everyone's advantage. I beg to move.

Lord Patel (CB) [V]: My Lords, I speak to Amendment 25 in the name of my noble friend Lord Clancarty, to which I have added my name. In Committee, an amendment in my name was moved by the noble Lord, Lord Hunt of Kings Heath. I am grateful to him, for he did so with great skill and persuasion—as far as the House was concerned, but not the Minister. Hence my second go at it, but with the added privilege of joining the amendment of my noble friend Lord Clancarty.

The Prime Minister has the ambition to make the UK a science superpower. Really? Yes, really, and why not? We can, and the sciences are up for it. Our science and research universities are world leaders. We are innovative. Our scientists in all areas of life sciences, clinical sciences, physical sciences, animal and plant sciences and other sciences are world-class, as are our universities, which excel in technological innovations. But any country that wants to be a science superpower needs to be open, welcoming and supportive. We have been and are such a country, hence our success in attracting thousands of young scientists who currently work in our country.

However, we now want to go away from this, and the messages we are giving out are all negative. We want talent, but we want it to pay lots of money for visas, health charges, and an uncertain future. As the noble Lord, Lord Willetts, one of our respected past Ministers of Science, said in a debate on research funding of universities on 9 September this year, a post-doc wishing to come to this country for a period of three years, with three family members, would end up paying 10% of his salary in visas and health charges. How much of an incentive is that?

6.45 pm

Science needs all talents: leaders who lead a team of researchers, post-docs, PhD students, and—importantly—technicians. They are all skilled—yes, technicians too. The young people we see on television behind scientists working on vaccines for SARS-CoV-2, pipetting testing fluid into small plastic plates, are skilled technicians. They are not highly paid, but they are the workhorses of any lab, anywhere. The Bill, with rules related to salaries and associated costs, will drive these talented young people to other countries, and, with that, the Prime Minister's ambition of making the UK a science superpower.

The Minister, who is highly respected by the House, and by me, will probably say that the Bill will not put people off from coming to this country. In science, if you have a theory, you have to prove it to show that it works, so this amendment gives the Government a chance to do just that. The noble Earl, Lord Clancarty, had indicated that he might divide the House, but he has now categorically stated that he will not, which is probably wise. The Minister therefore has an opportunity, as she did on the last amendment, moved by the noble Baroness, Lady Lister of Burtersett. I look forward to her response.

Baroness Hamwee (LD): My Lords, my name is to Amendment 25, and it should also have been to Amendment 17, but I think I sent the email before I had typed "and 17". I declare an interest as a member of the board of the Rose Theatre, Kingston.

In Committee, the noble Lord, Lord Parkinson, said that

"we are determined to get this right and ensure that these talented people"—

he was referring especially to the creative industries—

"choose to work and base themselves in the UK."—[*Official Report,* 9/9/20; col. 892.]

Amendment 17 is not about being based in the UK but coming to the UK and, necessarily, going from it, and about reciprocity, which the noble Lord, Lord Patel, just mentioned. That has to be the basis. Amendment 25 is about creativity, because research and innovation are inherently creative, as are the other industries mentioned, and are very often collaborative internationally. Again, the noble Lord, Lord Patel, mentioned the issue of vaccines, which is of course very topical. By no means are all those who are the subject of the amendment higher earners—or, in government terms, highly skilled—and that is sometimes because they are quite early on in their careers. In research areas, they are not all wild-haired individuals working alone, shouting "Eureka!"—I have to say I have no idea what Archimedes's hairstyle was like. I should not have mixed those two up.

The arts and entertainment need a lot of technical support—the "others" mentioned in the amendment—and it is important that there are not administrative and financial hurdles in the way of all that. I understand that about two-thirds of the certificates of sponsorship for new visa applications for tier 5 are estimated to be for the arts, entertainment and recreational sectors, and noble Lords will understand the administrative impact of all that.

Such hurdles can quickly lead to a reduction in the pooling of experience and ideas. At the Rose Theatre, the board has for some years had wide-ranging discussions with representatives of other theatres, many of them from outside the UK. They have come over to talk to us and exchange experiences and ideas for the future—and very valuable that has all been. Of course, by no means at all is this the extent of my concern about the future of theatre and other parts of the creative industries.

I mentioned reciprocity and I have yet to hear anyone say that online meetings and conferences, as we are experiencing now, are a complete substitute for being face to face. They are very helpful in the current situation—but only so far. Short visits, particularly in the services sector, which is so important to the UK, are really important too. When I say "services sector", I do not want to forget all the supporting activities that there are. Services have their supply chain just as much as manufacturing does. That is important in the world that I used to be in—the law—for finalising a deal or settling a conflict, and it is important that entry is easy and can happen speedily.

I am very glad that the noble Earl brought these amendments back to the House. He said that they would be to everyone's advantage. We are all advantaged, both by the arts and by the sciences.

Baroness Bull (CB): My Lords, it is a pleasure to add my name to Amendment 25, which brings together in one place my former professional life in the cultural sector and my current life within higher education. In noting that, I also note my interests as recorded in the register. In both those sectors, international mobility is crucial to success. Ideas and innovations, be they scientific or artistic, are no respecters of international borders. Indeed, it is well evidenced that international mobility enhances the quality of ideas and the impact of outcomes, with researchers and artists reporting that visiting and working in other countries helps them form collaborations, develop new ideas and gain new technical skills and expertise.

Universities are one of the best examples that we have of global Britain. According to the *Higher Education Staff Statistics*, nearly 30% of the academic staff in the UK are from overseas. The Government's global talent visa is a very welcome recognition of the importance of international collaboration to research and innovation. Nevertheless, there are already a number of problems regarding the immigration status of academics, and, as we have heard, UK visas are among the most expensive in the world. The global talent visa costs 15 times more than a similar visa in Germany, and my noble friend Lord Patel has painted a very real picture of the costs for a young academic who wants to move their family here. Unless overall costs associated with visas are reduced to levels that are reasonable, proportionate and internationally competitive when compared to those of other research-intensive nations, "global Britain" risks becoming "little Britain".

The concerns of the cultural sector about the loss of mobility beyond 2020 have been well rehearsed in this Chamber, and they have been laid out again today with great clarity by my noble friend Lord Clancarty. The continuation of short-term mobility between the UK and the EU emerged in an Arts Council survey of 1,000 stakeholders as a top priority post Brexit. It was more important even than the loss of EU funding, which has been worth approximately £40 million per year. The UK's creative success has been shaped by the opportunities that mobility offers for UK creatives to develop their skills abroad and for UK-based companies to easily access talent from our nearest geographical neighbours. In the most economically productive parts of the sector, domestic skills gaps mean that up to 30% of staff have been recruited from the EU, and it is hard to see, even before Covid, how the creative industries will thrive in the new immigration regime that is in front of us today.

It is a regime that promises access to the brightest and the best, but which defines those qualities on the basis of salary and a points-based system that is ill matched to the characteristics of the sector, in which low pay does not equal low skills and where the training routes—I speak to this personally—do not lead to postgraduate qualifications that are points-scoring. It is also a regime that yet again ignores the importance of freelancers, who offer vital flexibility to a sector that is made up almost entirely of businesses that employ fewer than 10 people. As we have heard from the noble Baroness, Lady Hamwee, those organisations will be hard pushed to meet the financial and administrative burdens associated with the employment of freelancers.

The UK's creative sector is often pointed to as a major agent of soft power, but its contributions extend beyond global reputation to the economy and to employment right across the UK. The Centre for Cities reports a disconnect between the Government's levelling-up agenda and the new immigration system, with cities in the greater south-east expected to gain the most from the new rules for so-called high-skilled migrants. Understanding the impact of this immigration regime on a sector that, unlike most, is delivering growth in almost every region of the UK, becomes even more important in the light of this.

I am afraid that I have seen little to reassure me that, across either research and innovation or the arts and culture, there is genuine understanding within government of the nature and specificities of these sectors, their workforce and the structures and systems on which success has been built. This amendment seeks to ensure that proper focus is given to the impact of reduced mobility on two sectors that we can truly claim are world leading, and will help to ensure that they remain so into the future.

Lord Hunt of Kings Heath (Lab): My Lords, I am delighted to support this amendment and Amendment 25. Although my main interest is in the life sciences sector, as a patron of the City of Birmingham Symphony Orchestra, I want to say something about the need for musicians and other artists from the EU to come to the UK, and vice versa. Despite the welcome support of the UK Government through their Culture Recovery Fund, the orchestral sector in particular is under severe threat. Yet, as the noble Baroness, Lady Bull, suggested, we should never underestimate the power of the UK's world-class orchestras and other artistic ventures to contribute to renewal and innovation in our society.

So far as this immigration Bill is concerned, out of the CBSO's 75 musicians, three come from Germany, and one each from France, Ireland, Romania, the Netherlands, Hungary, Portugal, Spain, the Czech Republic and Denmark. I understand from the Association of British Orchestras that that is on a par with most other orchestras. Surely it is essential that, in future, musicians from the EU can continue to come and play in our orchestras and join in other artistic ventures, just as we want British artists to be able to go and work in the EU.

The Association of British Orchestras reports that a major issue for most of its members is how non-UK musicians can come to live and work in the UK as freelancers, given that the majority of orchestral musicians in the UK are self-employed. Under the points-based system there is currently no such route, even if their combined earnings from freelance engagements are above the salary threshold, because they do not have an employer who can sponsor them. There is tier 1, but the bar has been set at an exceptionally high level where a musician has to satisfy an "exceptional talent" test. The Government have talked about introducing an unsponsored route, but for only two years. Practically, orchestras need this to be up to five years, as with employed musicians, and we have no timetable for its introduction.

I turn now to the life sciences sector. Again, it is world beating and I want to echo the comments of the noble Lord, Lord Patel. It is vital that any changes that are made to the immigration system protect our excellent life sciences and the UK medical research establishment. This is contingent, as Cancer Research UK, the British Heart Foundation and others have said, on the maintenance of the UK's world-leading research environment and our continuing ability to attract, recruit and retain global scientific talent at all levels.

As I said in Committee, 31% of the UK's Nobel Prize winners in science were born outside the UK. That is an absolute indication of the power of life science in this country and of our historic ability to attract the brightest and best from abroad. It is vital at not just that level but the technical level as well that we continue to do so.

In Committee, the Minister said that we should really depend on the impact assessment prepared by the Home Office and the Migration Advisory Committee —but I think we need to go further. Both these sectors are the sort of sectors that any Government would want to support, and they both need reassurance. The amendments before us are very mild. The noble Earl has said that he will not press his amendment to a vote, and I understand that, but the Government need to reciprocate and at the very least show that they understand that these sectors need to be protected.

7 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I offer the Green group's support for both the amendments, but particularly Amendment 25 in the name of the noble Earl, Lord Clancarty, with broad cross-party support. Given the time and extensive exploration of these amendments by the movers, I shall not speak at length, but I want briefly to reflect particularly on the issues of inequality that the end of freedom of movement will bring to the science and research communities and the artistic and entertainment industries.

The Government like to talk about attracting the great and the good—another way of saying the established and mainstream, those backed by multinational companies and large funders. But this is very rarely where the big creative ideas come from: the truly original thinking and breakthrough artistic creations, the ideas and knowledge that will help us move away from the disastrous "business as usual" approaches that have trashed our planet and given us a poverty-stricken and unhealthy society.

When we look at the arts and entertainment, there is often a temptation to refer to the economic importance of those industries, and they are of course of great and increasing importance. But I also want to speak about the quality and enjoyment of life. There is little doubt that the top-charting artists, those with massive commercial backing, will be little affected by this Bill. But the small French band visiting from a town with which a rural settlement is twinned, or the experimental and innovative new artist appearing at a fringe festival, are the people who will be stopped—and we will all be the poorer.

Finally, I refer to the arguments that I made in moving Amendment 2—and I put on record my thanks to all noble Lords who supported it—about the impact on UK citizens' residence. As I said, how we treat people across Europe will be largely mirrored by how our people will be treated in Europe. I am sure that I am not the only Member to be contacted by desperate musicians and other performers who fear, with good cause, that the restrictions that they may face in response to our restrictions will end their career. I shall not seek to steal words from the Lords spiritual, but the phrase "Do unto others as you would have them do unto you" comes irresistibly to mind.

Lord Judd (Lab) [V]: My Lords, the noble Earl is a very civilised man, and it is always very refreshing to hear him. We have become a highly regarded and enviable centre of the arts in the world. The first thing that any of us who are involved at all know—and I have a son-in-law who is a professional singer and other members of the family who are involved in the arts—is that that by definition the arts and creative activities that they involve know no national frontiers. They are international. My goodness, how we flock to hear the music of foreign composers and singers from other countries. In drama, the same story is true. This is a creative element which helps to build a positive profile of Britain in the world.

I find it very sad indeed that people wanting to participate here and make a contribution to the world by participating here, and certainly to our enjoyment in this country, should encounter these physical barriers and the rest. It is important that if we take any pride at all in the reputation of the UK and of the place of respect and envy that we have reached in the world, this amendment needs to be addressed very seriously. I know the Minister is a highly civilised person and I am sure she will take the point that we should be encouraging people to come and participate in that activity.

The other point I shall make is that I am involved, marginally, in several universities in Britain. It may be argued that the number of overseas students wanting to come here defies the predictions of those who have had anxieties, but in this amendment we are talking not about undergraduate students but about the quality of research. The quality of research and of higher education depends upon international input. It is inseparable. It is not just something with which we may or may not make some money. It is integral to the real quality of higher education research.

Again, we should be welcoming people from abroad and encouraging them to come and participate in that activity. There is too much evidence that, whatever may be happening at undergraduate level with numbers of students, there are now too many people of real quality who are thinking twice about settling with their family in this country. That is a tragedy, and we should do anything we can do to make them welcome. We should have a most welcoming reception at immigration points in this country, at ports of entry and the rest, so that people understand how much we value and appreciate them. I do not know about other noble Lords, but I am sure that many of them and the Minister share a sense of richness, enjoyment and fulfilment at the quality of

[LORD JUDD]
our arts and our research. This is an important amendment and I am delighted that the noble Earl has put it forward.

Baroness Masham of Ilton (CB) [V]: My Lords, I support Amendment 25 and thank the noble Lords who tabled it. In these difficult times we need to recruit international research and innovation staff more than ever. It is important that we welcome them and make the UK an attractive place for them to do their research. If it is too difficult to attract them, they will go elsewhere. I speak from personal experience as I have a cousin who was not given enough time to do his clinical research in microbiology. He emigrated to Australia and is now a professor.

A group of noble Lords were invited to visit the Crick Institute—this was before coronavirus. The director told us that he had had a difficult time getting a bright Japanese research student in to do his work. Also, a highly intelligent German researcher, doing research on cancer, had to return to Germany because she did not know if she would get a grant when her EU one ran out.

I ask the Minister if she can tell your Lordships that visa costs will not form a barrier to attracting talented researchers from across the world and that visas will be easy to access, with their benefits effectively communicated, to ensure access from all levels of the research ecosystem. I also hope that people from the arts and entertainment industry will be able to travel easily. It will be a sad disaster if they are restricted by a bureaucratic nightmare.

Lord Naseby (Con): My Lords, I am sure the noble Lord, Lord Patel, is right in what he said about life sciences. However, this is for young people from all over the world, not specifically the EEA, although the Bill is specific to the EEA. Whatever system comes in, we must ensure that the life sciences economy is encouraged and developed, and maintains our position as a world leader.

On artists, as rightly highlighted by the noble Baroness, Lady Bull, I suspect all noble Lords enjoy opera, theatre or music—whatever our particular interests are. I am not sure that the noble Lord, Lord Hunt of Kings Heath, is right that anybody in an orchestra should expect a five-year assignment. In my experience—and I do not have particular experience of the Birmingham orchestra—the norm is two to three years, when there is a review, but I may be wrong. This is certainly a different problem from that of life sciences. It needs that flexibility because some operas or plays run for a long time, but some do not. My wife was deeply involved in saving the Almeida Theatre in Islington. That does short-term runs, but other theatres have long-term runs. I will listen to my noble friend.

I will make one suggestion though, as I am deeply involved in south Asia. We have two sorts of visas for Sri Lanka and I think the same for India. Short-term business visas are given a priority by our high commissions, because they are to do with trade and we want to trade internationally, backwards and forwards. They function well, frankly, because the people on the ground, in our high commissions, are well briefed. There is a huge challenge, and it is not far off, for every one of our embassies in the EU to have people who are fully briefed, in depth, on exactly how the system works, however it may end up.

We are not good at communicating as government. We have seen too many examples of that recently. We do not have much time and, if it can work in this part of the world, which I know a lot about, I do not see why it should not work in the parts of the European community to which this applies. I will listen to my noble friend on the Front Bench, but there is a problem here that needs to be addressed. I will finish how I finished the other night. I think we are addressing this for the temporary workers bringing in the harvest, root crops, et cetera, and this is not that dissimilar.

7.15 pm

Baroness Neville-Rolfe (Con): My Lords, it is always a pleasure to follow my noble friend Lord Naseby, who is always full of inventiveness and good sense. I also support Amendment 25, although I would like it to be in a different form, and I thank the noble Earl, Lord Clancarty, for his energy and perceptiveness.

The arts, especially music, is a people business, and I am concerned about the movement of musicians, actors and entertainers across Europe after Brexit. It is not only La Scala and Covent Garden, or the aged Rolling Stones on tour, that I am worried about. I remember one of my sons touring the Netherlands with his school choir and what he learned in poise and culture, and we have much enjoyed the visits of German choirs to Salisbury Cathedral. This amendment is about culture as much as economics, although individual artists and musicians are facing huge economic difficulties with Covid.

Others have spoken of their concerns about the flow of researchers and innovators, although I think that they will fit into the new points-based system better than arts and entertainment will. I know that DCMS has been giving a lot of attention to this whole area, since our creative record in this country makes us one of the world leaders, as the noble Baroness, Lady Bull, has already said. It is a claim made much too often for many things where world leadership is merely an impossible aspiration. Creators are by their very nature clever and inventive, so we may find that things are better than we expected after Brexit. However, asking for a report to Parliament is a modest and sensible request.

Nevertheless, it does not make sense to call for it a month after Royal Assent, so I would not vote for an amendment in exactly that form, although that is now academic. However, I hope that the Minister can respond to the feeling in the House on this matter, and with something broader than a reference to the Migration Advisory Committee—I am not sure of its expertise in the arts or in culture. We may also find that it does not have the capacity or resource to appraise and remedy the damage to our interests within the EU and the EEA territories, that is, outside the United Kingdom. Amendment 17 calls for a report after six months, which makes much more sense, but it is too broad to be really useful.

Lord Clement-Jones (LD): My Lords, as my noble friend Lady Hamwee has made clear, on these Benches we support Amendments 17 and 25. I am particularly pleased to see my Committee stage amendment enhanced in this way, and to see the noble Lord, Lord Patel, adding his powerful voice at this stage.

The noble Earl, Lord Clancarty, emphasised the importance of those from the EEA who work in our creative industries and those who work in international research and innovation. As he said, the creative industries are a hugely successful sector generating over £112 billion for the UK economy, and, as the noble Lord, Lord Hunt, emphasised, it is vital that changes being made in the immigration system protect the excellent UK medical research environment, which drives vital progress for our patients. As the noble Lord, Lord Patel, said, our research and innovation sector is world-class. I can testify to that as the chair of a university council.

All noble Lords have emphasised the importance of freedom of movement and international mobility to both these groups. I am not going to repeat what I said in Committee about the music industry. I will not rehearse those arguments, but that still does not diminish their power, particularly regarding freelance creatives, who have been mentioned today.

In respect of part of the predecessor to Amendment 25, which I moved in Committee, the Minister—the noble Lord, Lord Parkinson—said on 9 September,

"I appreciate the passion which many noble Lords have expressed for the UK's creative sector and its unquestionable success—it is a passion I share—particularly in the current challenging climate."

Then in a passage which could be taken both ways, depending on whether your temperament makes you an optimist or a pessimist, he said:

"In addition to keeping labour market data under careful scrutiny to monitor pressures, Home Office analysts will lead a comprehensive evaluation of the new immigration system."

I am not sure whether that should chill my blood, in the circumstances, but he will find precious little passion in the Home Office. He then said:

"I part company with some of the noble Lords who have spoken this evening, as I do not believe we need to create a new mechanism for this. We are very fortunate that we have the Migration Advisory Committee, which has been mentioned many times already and which is widely recognised for its expertise and independence".—[*Official Report*, 9/9/20; cols. 892-93.]

However, the expertise of the MAC is very narrowly focused. I looked through the list and I think there are three professors of economics, a doctor of economics and somebody who is a migration specialist. I suspect—it is not clear—that she has an economics background, so that is a full house of economists. The Minister tried to reassure us that the MAC has the ability to comment on any aspect of immigration policy as it sees fit and that it will produce an expanded annual report. What reassurance is that, if it is the wrong body? It may be good at producing reports on skills shortages in the wider economy, but where is the sectoral expertise?

As the noble Baroness, Lady Neville-Rolfe, said, this is about culture not economics. I thought that was a bullseye. Where is the committee's understanding of the issues, particularly in respect of the creative industries and research science? Its track record on salary thresholds as they apply to the creative sector is not reassuring at all. Where is the ability to consider costs and reciprocity, as mentioned by my noble friend and other noble Lords? I do not believe the Minister has persuaded us that the MAC is the right body to carry out a review of the recruitment of international research and innovation staff, and creatives, into the country. We heard all around the House about this: from the noble Baroness, Lady Bennett, about artists; from the noble Lord, Lord Hunt, about orchestras; from my noble friend Lady Hamwee and, eloquently, from the noble Baroness, Lady Bull, about creatives. Where is that understanding in the MAC?

In contrast, Amendment 25 would have a proper focus—I think that was the phrase used by the noble Baroness, Lady Bull—on these sectors. On these Benches, we fully understand that the noble Earl, Lord Clancarty, intends not to put his amendment to a vote. But I assure him that we will give him every support in prosecuting his case in every other way possible.

Lord Kennedy of Southwark (Lab Co-op) [V]: My Lords, Amendments 17 and 25, in the name of the noble Earl, Lord Clancarty, and others are ones that I fully support. To deal first with science and research, in this instance I agree with the Prime Minister: I want Britain to be a science superpower. That is a wonderful idea and aim, and if we delivered it we would ensure that the wonderful work of our innovation continued. My problem is that we seem to be doing everything possible to ensure that it does not happen. I bet that our competitors in the United States, France and Germany cannot believe their luck given how Britain is acting, as we are doing everything possible to drive people away—the innovators and scientists, the people who want to come to develop new drugs. Look at all areas of work and business; they are being driven away by the attitude of the Government. I find it frankly astonishing that we have to have this debate. It is of course one of the many benefits of Brexit. It keeps on giving, and I find it astonishing that we are here.

I also remembered the words of the noble Earl, Lord Clancarty, in Committee, when he told us that we should not forget that:

"What we do to others will be done to us".—[*Official Report*, 9/9/20; col. 876.]

We are going to find ourselves in all sorts of difficulties, and I will miss what we had. It gives me no pleasure at all to see what Britain is doing.

With regard to the arts, again, it is hard to overestimate the amount of money the arts bring in, and many noble Lords spoke passionately about them. I wanted to mention somebody who changed my life. Franz Busuttil was my music teacher at school; I met him when I was 11, and he taught me how to read music and play musical instruments. I did my Associated Board exams and he opened up my life to the world of the arts and music. Franz was Maltese, of course; he probably would not be allowed in under the present regime, but he changed my life and, when I go to the Globe or a concert, I always think about how Franz did that for me and his contribution to this country as an immigrant.

When you sit in a theatre, such as the Globe, and look around, people from all over the world are sitting there, watching Shakespeare being performed in a theatre very close to where it was performed originally.

[Lord Kennedy of Southwark]
People often come to Britain—and we want tourists to come here—but they do not often come for the weather; they come for the art, the culture and the fantastic experience they can have. Look at the Edinburgh Festival, the greatest arts festival in the world. That is what this country is all about.

Again, with the decisions we will take here today on this Bill, we are just cutting our nose off to spite our face; it is absolute madness. I fully support these amendments and hope that the noble Baroness can see the passion of many noble Lords who have spoken in this debate and give a positive reply.

Baroness Williams of Trafford (Con): I start by agreeing with the noble Lord, Lord Kennedy, that people do not come to this country for the weather. I also thank the noble Earl, Lord Clancarty, who has engendered a very thoughtful debate, and I am glad to say that I agree with most of the points that noble Lords have made tonight about migrants working in the research, creative arts and entertainment sectors, whose presence in the UK is often facilitated through short visits and who are crucial for this country; it is important to protect them. I also agree that international collaboration and movement of people are very important for these sectors to really thrive.

When noble Lords were making their speeches, I was thinking about the discovery of graphene by two Russian scientists in Manchester. What a difference it has made, not only to Manchester but to the future of innovation in this country and internationally. Our immigration system recognises this fact. I believe that the two sectors that have featured in tonight's debate already receive what might be considered preferential treatment in the system.

Currently, visiting artists, entertainers and musicians can perform at events, take part in competitions and auditions, make personal appearances and take part in promotional activities for up to six months without the need for formal sponsorship or a work visa. They can also receive payment for appearances at permit-free festivals for up to six months—or for up to one month for a specified engagement—under the visitor route.

Artists wishing to come to the UK for longer-term work will need to do so under the points-based system. However, we will maintain a dedicated immigration route for creative workers under tier 5 of the immigration system. This route will continue to cater for the sector as it does now, permitting a broad range of creative workers to live and work in the UK for up to 12 months at a time. Noting what the noble Lord, Lord Hunt, said, about musicians who want to come for two years, I understand that they can stay for up to two years if the sponsor signs for it.

As non-visa nationals, EU citizens will benefit from the concession for temporary creative workers looking to remain in the UK for up to three months, without the need to apply for a visa in advance, provided they first secure a certificate of sponsorship. We will also keep the global talent immigration route, which I will say a bit more about when I talk about the research sector, but I mention it here to demonstrate to noble Lords the breadth and range of immigration routes available.

7.30 pm

The research sector will be able to use the skilled worker immigration route, just as it uses tier 2 now, to bring over talented international employees. This House has heard at length how we are reforming the skilled worker route by expanding the skills threshold, reducing the general salary threshold and making the system easier to use for employers, not to mention including an element of tradeable points to ensure that those who may not be able to meet the relevant salary threshold can still benefit from this route. They can also use the tier 5 route, under which we can operate government-authorised exchange schemes, offering opportunities for individuals to do work experience, work-based training or research. Our government-authorised exchange routes are hugely successful and cover some of the world's foremost academic and research institutions. For example, the scheme that we operate in conjunction with UK Research and Innovation allows institutions such as the Francis Crick Institute and the National History Museum to collaborate freely with international colleagues.

The global talent immigration route focuses on people who are leaders in their field today but also those who have the potential to be the leaders of the future. We run this route by working with some of the most eminent scientific and artistic bodies in the UK, including the Royal Society and the British Academy, to ensure that the UK enables the free flow of international movement and collaboration. The reformed global talent route was launched in February, but we are keeping arrangements under review and will make regular updates and improvements based on feedback given to us by those endorsing bodies. We have every confidence that it is working well and serving the needs of the research sector. However, one thing we are not is complacent about the system, particularly the way that it operates and functions. The Government have been working, and will continue to work, with the creative sector to understand how the system can be simplified.

Turning briefly to the specifics of Amendment 25, I think that noble Lords will agree that we are going much further than this amendment would compel us. As this House has heard many times, we have already published a comprehensive impact assessment which covers the impact of this Bill and the introduction of a new immigration system. As my noble friend Lady Neville-Rolfe said, a further impact assessment, laid one month after the passing of the Bill, would not add to that report. Given the limited time that the Government would have to produce such a report, the danger is that it would be devoid of real analysis. I do not think that it would contain particularly reliable information about who had travelled under the new immigration system. However, I wholeheartedly agree that this needs to be looked at and kept under review. That is why the Government have committed to evaluate comprehensively the new single global system, including the immigration routes available to those involved in research and the arts.

Rather than being a short, hurriedly put-together report, this research will involve analysis of migration system data and the experience of system users, including employers, educational institutions and migrants themselves. It will be conducted regularly over a number of years to provide rich insight for making any improvements that prove necessary.

On making clear which immigration routes are available to artists, I hope that the information published on the GOV.UK website already does this—although I sense the noble Baroness, Lady Hamwee, internally groaning. We are undergoing a huge programme of simplification following the advice and guidance of the Law Commission to ensure that the Immigration Rules are easy for applicants to understand and follow. A further report to Parliament would not aid applicants in applying for an immigration route, with such a wealth of guidance available elsewhere.

I hope that the noble Earl feels somewhat comforted by my words—and noble Lords will have noticed that I have not mentioned the Migration Advisory Committee once.

The Earl of Clancarty (CB): My Lords, I thank everyone who has taken part in this debate. There are a couple of themes that have run through this debate like a thread: one of them is mobility, which some noble Lords have mentioned, and the other is individual workers. The noble Lord, Lord Patel, mentioned skilled technicians in research, the noble Lord, Lord Hunt, mentioned individual members of orchestras, the noble Baroness, Lady Hamwee, talked about earning power, or lack of earning power, and the noble Baroness, Lady Bull, talked about the cost of the global talent vision. So there is real concern about people being able to come to this country.

Since I first started taking part in all these Brexit debates, the phrase I have become most afraid of is "the brightest and the best", because, as the noble Baroness, Lady Bull, said, there is no relationship, particularly in the arts, between salary and talent. People are often here for many years developing their practice, and still may not reach even £20,000 a year, yet they still make extraordinary contributions to this country in the arts and indeed in research.

There is an increasing case—and it comes out of this debate—that these are areas that need to be considered not preferentially but as exceptional. One of the things that has come out of this debate is that it is plain that the discussion we have had has been far from the arguments about jobs in these areas being taken by others from other countries. Others are welcome, because they contribute to the innovation and creativity that have the potential to lead to new jobs and even new industries. We may be an island, but we should not be an island research-wise or creatively, as the noble Lord, Lord Judd, suggested.

I want to finish by repeating my question. I think the Minister is trying to give a bit of a concession by saying that they are going to keep an eye on these sectors, but I repeat the question I asked in my opening speech: how will the Government monitor the loss of free movement in these significant areas? A month may be too short a time, as the noble Baroness, Lady Neville-Rolfe, pointed out. There remains an urgent need for such an assessment to be made, and it should be made taking into account everything the noble Lord, Lord Clement-Jones, said about MAC in his speech. But I beg leave to withdraw my amendment.

Amendment 17 withdrawn.

7.39 pm

Sitting suspended.

8.01 pm

The Deputy Speaker (Lord Bates) (Con): My Lords, we now come to the group consisting of Amendment 18. I remind noble Lords that they may speak only once and that short questions for elucidation are discouraged. Anyone wishing to press the amendment to a Division should make that clear during the course of the debate.

Amendment 18

Moved by ***Lord Oates***

18: After Clause 4, insert the following new Clause—

"EU Settlement Scheme: physical documented proof

(1) The Secretary of State must issue physical proof confirming pre-settled status or settled status to all EEA and Swiss nationals and their families who have been granted such status under the EU Settlement Scheme and who request such proof.

(2) No fee may be charged for issuing physical proof under this section."

Member's explanatory statement

This new Clause seeks to provide physical proof of settled and pre-settled status to those who make a successful application through the scheme, providing physical evidence of their migration status.

Lord Oates (LD): My Lords, I rise to speak to Amendment 18 in my name and that of the noble Lords, Lord Polak, Lord Kerslake and Lord McNicol of West Kilbride. In doing so, I give notice of my intention to test the opinion of the House unless the Government are willing to move on this issue. I also thank all noble Lords who are speaking in the debate and all those who have spoken in previous debates over the years; they have shown consistent support on this issue.

It seems that we have been over this ground on numerous occasions over the past few years. In that time, the Government have failed to put forward any convincing arguments to deny EEA nationals, alone among all of the people residing in the United Kingdom, physical proof of their right to do so. This amendment would right that wrong and in doing so it would alleviate anxiety for millions of people, in particular the elderly and the most vulnerable.

The amendment has no partisan or ideological flavour and it is backed by Peers from all sides of the House, from all parties and from none. It is simply a practical measure to make life easier for a large number of people and to deliver a consistent system of proof of residents' rights which does not discriminate between nationalities. It is deliberately modest in its ambitions. It does not require that physical proof is issued to every EEA national who is granted settled status, only that EEA nationals must be provided with physical proof of their status if they request it.

The Government's arguments against this very modest proposal seem to be as follows. The first is that offering both digital and physical proof of status would be confusing. That argument is hard to understand because this is exactly the system that operates for all other permanent residents in our country. Far from avoiding

[Lord Oates]
confusion, a digital-only system will sow it in abundance. Landlords, employers and others required to check immigration status will now be confronted by two systems, one for EEA nationals and one for non-EEA nationals. They may wonder at this discrimination between nationalities and, given that they face crippling fines and the possibility of imprisonment if they get things wrong, they may decide that in the absence of physical proof, it is safer to replicate the Government's discrimination and not to employ, rent a property to or provide a service to an EEA national.

Secondly, the Government claim that a digital proof is better than a physical proof because a digital proof cannot be lost. The answer to this is simple. We are not suggesting the removal of digital proof or digital records; we are simply arguing that physical proof should complement digital status. None the less, it is worth questioning the Government's repeated claims in Committee about the resilience and robustness of the digital system. These arguments come to us in a month in which the Tokyo stock exchange lost a full day of trading due to a technological failure not only of its main system but also of its back-up, the Conservative Party virtual conference was rendered inaccessible to many of its delegates, denying them what is doubtless, for Conservatives at least, the unrivalled pleasure of a speech by Michael Gove, and of course the failure of our own House of Lords voting system when we were discussing this very Bill on Wednesday last and the failure of our hybrid proceedings this afternoon.

Let us be clear: systems failures are not a matter for the history books but happen every day. Technical faults occurred on the EU settled status scheme website in August this year, a nationwide failure of the US Customs and Border Protection system happened in August last year, and we all know of the scandalous injustice visited on sub-postmasters and sub-postmistresses as a result of the supposedly infallible Horizon IT system. In each case, those responsible made extravagant and categorical claims about the robustness and resilience of their system.

Even temporary failures may give rise to permanent effects. If an employer or a landlord is unable to access the system at the point they have to decide between potential employees or tenants, the likelihood is they will give the job or rent the home to someone who can provide physical proof of their right to work or rent accommodation.

Thirdly, the Government argue that they intend to move to a wholly digital system in future and that it therefore makes sense for this new settled status scheme to adopt a digital-only model from the outset. It makes no sense at all. If a digital-only system is to be adopted, it should be extensively trialled in advance with widespread pilot schemes conducted with citizens who are confident in their status and who have the security of physical documentation as well. Australia, one of the few countries to have moved to a digital-only system, trialled it over a period of more than a decade.

As I said in Committee, we should not conduct an experiment with the lives of millions of people who are in receipt of an entirely new status, whose rights are not even underpinned in primary legislation and who are understandably nervous about their status, given the Government's declared intention to violate the very treaty on which that status is based. We should especially not conduct an experiment with the lives of millions of people when the one trial the Government have undertaken, which involved non-EU citizens who had the back-up of a physical residence card, found the following:

> "There is a clearly identified user need for the physical card at present, and without strong evidence that this need can be mitigated for vulnerable, low-digital skill users, it should be retained."

I asked the Minister in Committee to explain to the House what has changed since the Government made that assessment in 2018. She either could not or would not answer that question. Neither could she tell us when the policy equality statement related to this policy, which the Government have confirmed exists, will be published. It is unacceptable that we are being asked to decide on legislation that will affect millions of lives when the Government are withholding from us such vital information, so I ask the Minister to address these issues in her response.

On every occasion we have discussed this matter, I have asked the Minister and other members of the Government, just as my noble friend Lady Hamwee did on an earlier amendment this afternoon, to try to walk in the shoes of others and to understand the huge anxiety which the Government's refusal to listen and make this minor change is causing to EEA nationals, particularly to the elderly, vulnerable and those who lack IT literacy. At the end of the day, this argument is not about technology, documents or computer systems—it is about people's lives, whether EEA nationals can feel secure in the status on which their whole lives are based, and whether the elderly and vulnerable can operate the system without dependency on others. It is about whether victims of domestic abuse will face further misery as an abusive partner exercises control over their lives through control of the email address on which their status is based, as the noble Baroness, Lady Bull, raised in Committee. It is about whether those seeking employment, accommodation or access to services will be discriminated against by employers, landlords or service providers who are confused that EEA nationals alone cannot produce physical documentation.

The case for this modest amendment is overwhelming. The practical arguments demand it, the principle of non-discrimination requires it, and the most basic level of consideration for the EEA nationals who have made their home with us compels it. I beg to move.

Lord Polak (Con): I pay tribute to the noble Lord, Lord Oates, for his tenacity. We sat together on the Justice Committee some years ago, discussing these exact issues. As I stated at Second Reading, I am pleased to add my name to the amendment. I also thank my noble friends Lord Parkinson and the Minister for the time they gave me last week.

Like other noble Lords, I have received many messages from individuals supporting the amendment, from people whom I have never met to a number of colleagues from all sides of the Chamber—and I am grateful for that. As I have stated, the amendment is not political in nature but practical and sensible, and it should not prove onerous, as it mandates the Government to

provide physical proof only if requested by an individual. Rather than giving my own opinion, I quote from a letter that I received from Maria:

"I am an EU national who has been based in the UK for over 26 years. As of 1 July 2021, I will be faced with proving my right to live and work here on a continual basis, hindered by the fact that I have no physical document with which to do so. Instead, for every different employer I work for, I will need to go through a lengthy, contorted, multi-step process involving my passport, my birth date, a unique one-off code sent to my phone, the employer's email address, their business details and us both accessing the government website separately. I also must count on having all the necessary correct information to hand, the wi-fi connection being strong enough, the website not being down and there being no access errors with the database. In addition, I must hope that the other party is willing enough to go through the entire complex and time-consuming process with me. This is also the process I will need to go through to access the NHS, to rent a flat or, indeed, convince a sceptical airline employee abroad that I have the right to return to the UK without a visa in my passport or a physical document."

8.15 pm

As the noble Lord, Lord Oates, said, look what happened last Wednesday in our own House—a technology issue affected our voting and the House was adjourned. You could not make it up: this amendment was delayed by a technology failure. Yes, it can and does happen. I imagined the scene of Maria trying to board the plane and explaining that she has the right to come back to the UK while the website was down.

I also cannot quite compute—if I can use that word—the illogical and perhaps patronising position that on the one hand the Home Office is providing people who are granted settled or pre-settled status with a formal written notification of their leave, either by letter or PDF, yet on the other hand suggesting that it is merely confirmation but no proof at all. I ask my noble friend the Minister whether she agrees with me that there is a simple solution. The current system of physical proof for non-EU immigrants could be temporarily expanded to include EU citizens and provide a biometric residence permit for those EU citizens who request such proof. I further ask her if she could estimate the cost of implementing this solution.

I am all for progress, and I support the Minister's comments, when she said in Committee that

"we will replace physical and paper-based evidence of status with digital products for all migrants, starting with EEA citizens, in the next few years. These changes are being introduced gradually in a way that builds confidence for users".

I repeat:

"These changes are being introduced gradually"

and

"in the next few years."—[*Official Report*, 14/9/20; col. 1095.]

EU citizens living in this country deserve to be treated in exactly the same way. Surely EU citizens are equally entitled, in the words of the Minister, to benefit from the gradual introduction of changes that builds confidence for users just like everybody else. For this reason, I am pleased to support this amendment.

Lord Kerslake (CB) [V]: My Lords, I am pleased to add my name to this amendment, and again thank the noble Lord, Lord Oates, for his diligent pursuit of this issue. Unfortunately, I was not able to join the debate in Committee on 14 September, but I have read the record of the debate. The case for providing access to physical records has been so compellingly made by the noble Lord and other Peers across the Chamber that I do not feel the need to repeat it tonight.

The question I have reflected on is why on earth the Government would not be willing to agree to this. It does not cut across a manifesto commitment, set an unwelcome precedent, or involve major cost or administrative difficulty. As other noble Lords have pointed out, we already have such physical proof available for non-EEA citizens. Having read through the records, I think that the only arguments put forward by the Government are that they are committed to the path of digital, and that it is not necessary.

On the first of these arguments, nothing in this amendment implies that the Government should divert from the path of increasing the use of digital technology —this is really important. It simply says that in the particular circumstances we are dealing with here, the opportunity to also have physical proof is a very important, indeed vital, reassurance. On the second argument, the3million group and the individual representations have provided very good evidence that it is seen as necessary by those affected. However, if it is not necessary, we can expect the take-up to be very small, and there would be an opportunity in the future for the Government to revisit the issue. This is a straightforward and deliverable change to the Bill that would be widely welcomed by a group of people caught up in this process through no fault of their own. It is a small bit of humanity and common sense.

If the Minister is so sure of her ground—of the certainty that the systems will work exactly as intended, without error—she may hold on to her position and I hope that it goes to a vote. But I ask her to think again, because none of us can give that level of certainty to something that is so vital to people's lives.

Lord McNicol of West Kilbride (Lab): My Lords, the noble Lord, Lord Oates, has, in his opening contribution, clearly outlined many of the arguments why this simple, short amendment on physical documentation should be accepted by Her Majesty's Government. It is only five lines long, but within those five lines, so much future heartache and pain could be averted—averted for the most vulnerable in society.

As we have heard, this amendment is tempered and moderate. The words

"and who request such proof"

in subsection (1) show how measured this cross-party amendment, proposed by a grouping of the noble Lords, Lord Oates, Lord Polak, Lord Kerslake and me, is an attempt to be. I hope that the Minister can be as accommodating as we have been.

There have been calls under previous amendments for physical documentation to be automatically provided for all. I have sympathy with that call but, in the hope that we can get to a position where our amendment could be accepted by the Minister and Her Majesty's Government, the words

"and who request such proof"

have been added. It would be a very sad day if the Minister cannot accept this short and sensible amendment.

In rereading the Commons Committee debate and previous debates on this amendment in your Lordships' House, like others, I am still at a loss to understand

[Lord McNicol of West Kilbride]
why the Minister feels she cannot accept or support it. The arguments against have been, at best, vague. When responding on 14 September, the Minister said, when referring to the Home Office letter:

"I must say, it is not proof; it is confirmation. This should reassure individuals about their status when dealing with the Home Office in the future"—[*Official Report*, 14/9/20; col. 1094.]

Well, no. It is the issuing of the physical proof that is vital and will give those individuals the reassurance they need. We all heard the noble Lord, Lord Russell, in his contribution on Amendment 16 talking about the issues surrounding the Home Office. It is vital for so many reasons—for work, for housing, for the feeling of belonging.

Like many others who spoke earlier, I fully support the digitisation and the move to online processing and ordering, but there are issues and concerns with the only form of access to proof being digital and online. We have heard some of those. What happens if the online systems fail—like our voting system last Wednesday, when it was critically and crucially needed? Only this weekend, we have seen the failures in relation to Covid testing and the errors that have occurred with the digitisation there. But it is not just the errors: there are also those who are not digitally literate. What support will the Government offer to them, if they will not accept the amendment?

I hope that, with the cross-party support of this simple, short amendment, it can be accepted and introduced.

Baroness Bull (CB): My Lords, I fully support all the points so eloquently argued, once again, by the noble Lord, Lord Oates. I will speak briefly only to reiterate the points I raised in Committee, which were not fully addressed by the Minister in her response.

My first point relates to people in abusive and coercive relationships. I pointed out then, and remind the House now, that a common strategy in coercive control cases is to deprive the victim of access to phone and internet use. This raises the question of how someone who escapes a relationship with a coercive partner will be able to prove their status in future if, as is likely, it was the abusive partner who managed the process of claiming settled status in the first place. In seeking to rent a safe place to live, or to get a job in order to pay the rent, they would be obliged to contact the partner they are likely to have struggled so hard to leave. This is not a sidebar issue. Coercive control is now, quite rightly, a criminal offence in the UK. In the year to March last year, there were 17,616 offences recorded by the police in England and Wales. Can the Minister explain what protection there will be for victims of coercive control or abuse, so that they are not forced back into contact with their abuser in order to prove their immigration status?

My second concern is for people with impaired mental capacity, who are unlikely to have been able to navigate the application system alone, or to have been able to enter into mobile and internet accounts in their own names. Given the fluidity of the social care workforce, there is no guarantee that, at a later point in life when they are applying for a job or to rent a home, they will still be connected with the carer or caseworker who provided assistance. Mental capacity changes over time. Someone who has mental capacity when they apply may lack it at a later date, without the moment at which this change takes place being immediately clear. Can the Minister explain how people who lack mental capacity, now or in the future, are to be protected?

In response to these concerns, which I articulated in Committee, the Minister reiterated the Government's commitment to

"delivering a service that reflects the diverse needs of all users."—[*Official Report*, 14/9/20; col. 1094.]

Given everything that noble Lords have argued on this question, this evening and previously, does she not agree that delivering a service that reflects the diverse needs of all users will include, first, an assessment of which members of society would be disadvantaged by the lack of a physical document; and, secondly, an assessment of the impact of accessibility issues on all potential service users?

I know that the Minister will agree that equality of access should be at the heart of every government policy. This tiny amendment—a simple slip of paper and only if requested—does nothing more than ensure that this is the case. For this reason, it has my support.

Lord Kerr of Kinlochard (CB) [V]: I congratulate the noble Lord, Lord Oates, on his rather brilliant introduction of this amendment, which I strongly support. The case for it would be made very succinctly were John Stuart Mill or Jeremy Bentham with us. The task of government is to engender the greatest happiness for the greatest number. People want physical proof and, as the noble Lord, Lord Polak, said, our inboxes demonstrate how unhappy so many are at the prospect of being denied it. I can understand why.

We are talking about people—some are vulnerable, some short of digital skills—who are now all already facing a period of unexpected but inevitable uncertainty. Every time they want to apply for a job, rent a place to live, seek medical help, or board a plane home, they, and the potential employer, landlord, healthcare provider or foreign airport employee, will have to go through a multistep process involving passport, date of birth, a unique, one-off, code sent to a phone, and the email address and business details of the employer, landlord, doctor or airport employee. They will both, separately, have to access the Government's website, relying on having all the relevant information to hand, the wi-fi signal being good and the website not going down. It is hardly surprising that some of these people worry that the employer or the landlord would prefer to skip the hassle and instead take on someone who has physical proof of their status.

8.30 pm

As the noble Lord, Lord Oates, has pointed out, it is discriminatory. Non-EU/EEA immigrants will have physical proof. Why should we discriminate? Why can we not let EU/EEA citizens, if they ask for it, have physical proof too? It is what they want. As the noble Lord, Lord Kerslake, has said, the costs would be negligible. It is a very modest measure. As the noble Lord, Lord McNicol, pointed out, we are asking only for physical proof to be available on demand. Some people

may not ask for it, but supposing they do. Why must we make so many people so unhappy? Let us go with Mill and with liberty. Let us carry this amendment.

Lord Alton of Liverpool (CB): My Lords, I warmly congratulate the noble Lord, Lord Oates, and the noble Lord, Lord Polak, on the manner in which they introduced this important Amendment 18. The noble Lord, Lord Polak, grew up in what was my Liverpool constituency; on a day when Liverpool has been licking its wounds, it is especially good to hear a Liverpool voice speaking such common sense, particularly from the Government Benches.

I spoke in Committee in support of the principles outlined by the noble Lord, Lord Oates, which underpin Amendment 18. This evening, he has again eloquently reminded us of some of those who will be disadvantaged and worse—as my noble friend Lady Bull has reminded us—should they not be able to access physical documentation. The noble Lords, Lord Oates and Lord Polak, also reminded us that digital systems are far from being infallible. What of those who simply do not have access to the technology, or have never been given access to the skills required to be able to use it? The noble Lord, Lord McNicol, made some telling points, especially about the reasonableness of this very moderate amendment.

In Committee, I specifically referred to the difficulties being faced by Roma travelling people with the digital requirements to which they will be subjected. I was disappointed at earlier stages that more was not said in response. I once again urge the Minister to address the Equality Act requirements to counter the discriminatory disadvantage that Roma will inevitably experience if this option of physical documentation is not made available. However, it is not only Roma. As other noble Lords have said, all of us have received correspondence from people anxious to retain physical documentation.

That brings to my mind a personal experience. My late mother was from a Gaeltacht area, or Irish-speaking area, in the west of Ireland, where, until their early deaths, her parents had worked a small hill farm. When they died, their children were scattered, and my mother emigrated. Her first language was Irish, she had little schooling and no documentation, and she was doing domestic jobs to make a living. Years later, my late father, a Desert Rat, wanted to take her on her first foreign holiday. Obtaining physical documentation was a challenge, although not insuperable. In the course of it, I was surprised by a revealing comment she made: that despite the specific freedoms enjoyed by the English and the Irish in those days to travel freely between both jurisdictions, she had always been worried about having no physical documentation. Happily, that was resolved, and her documents provided me, my children, and now my grandchildren, with the right to Irish as well as British passports—both of which I am proud to have.

I tell this story to illustrate the importance of physical documents to establish who you are and affirm your identity. The noble Lords, Lord Oates and Lord Polak, as well as other noble Lords, are right to have persisted with their amendment. I hope that, if we have to divide, we will support this amendment. However, I hope that the Minister will be able to tell us that the Government will give it further thought and perhaps come back with their own amendment at Third Reading.

Lord Randall of Uxbridge (Con) [V]: I support the amendment, which was so well introduced by the noble Lord, Lord Oates, and ably supported by those following him, particularly my noble friend Lord Polak.

I would like to tell the story of somebody who would not be affected by this measure, because she is not an EEA citizen. However, she was a victim of modern slavery and got indefinite leave to remain. She applied for British nationality and sent off her passport. That was two years ago, and the Home Office is still trying to make a decision about her case. I am not sure what the problem is, but she was not told about the need for a biometric card, so she does not have one. She cannot get one at the moment because her passport and all her other details are with the Home Office. Despite her status, she is finding it impossible to get a job because employers want to see that biometric card.

As others have said, we have talked about systems being down and about people not having the technology. The technology could be just an iPhone, but not everybody has a mobile phone—I know that pretty much all of us do but not everybody does. If a number is sent by text to a telephone, there are still far too many places in this country where the signal is not strong enough for the message to come through. As a Member of this House, from time to time when I log in, a number is sent to my phone with which I can verify that I am exactly who I say I am, and I can then get on to the Outlook system. Quite recently, I have been in situations in this country where I cannot do that because the telephone signal is not strong enough. Those are all things that we have to bear in mind.

Of course, the human angle is very important. One thing that has not been mentioned, but which I read about, is that one reason the Government do not want to accede to this modest requirement is that it is not secure. I can understand that there is always concern about counterfeiting and so forth, but there are so many things that we issue with physical proof that it should not be beyond the wit of a Government to produce something that is pretty difficult to counterfeit.

If there are concerns about the cost, although this amendment precludes charging, I suggest that a modest charge of £10 or £20 might go towards that. I think that the people who have contacted us would be happy to pay that sort of amount and maybe even a bit more. However, I cannot for the life of me understand why the Government are being so resolute—I could say "obstinate"—on this point, and I am afraid that I have to say to my noble friends on the Front Bench that if, as I hope, the amendment is taken to a Division, I will support it, and I think that it will pass with a very large majority.

The Lord Bishop of Southwark: My Lords, I too wish to speak in favour of the amendment, tabled by the noble Lord, Lord Oates, together with the noble Lords, Lord Polak, Lord Kerslake and Lord McNicol of West Kilbride, to whom I express gratitude for their skilful drafting.

[The Lord Bishop of Southwark]

I am still asked to provide evidence of my identity by means of a driving licence or a passport, or, upon entering the parliamentary estate, a parliamentary pass. The stated aim of the Government to confer settled and pre-settled status solely by digital means as a prelude to all immigration status being signified in this way is as curious as it is alarming. I say "curious" because it demonstrates a capacity for technological solutions from a department whose record in achieving them is mixed at best, and because it is being delivered to a House unable until today to vote by electronic means on its last slew of amendments. I hope that the Minister will take note of how heavily the Government have been defeated on each and every vote today. They are likely to be defeated again if the amendment comes to a vote, as it is another amendment that is not at all political and commends itself to common sense and human decency.

The Home Office was due to implement an electronic border system by 2011 for monitoring passenger data. This was put back to 2019, and I understand that the contract was terminated at one point. The Minister might advise us on how the system is going.

Last year, the Public Accounts Committee, reporting on matters to do with the Windrush scandal, picked up on its own prior concerns about the handling of electronic data at the department. It further mentioned that the Independent Chief Inspector of Borders and Immigration found that the department had wrongly identified some people as disqualified from having a driving licence or a bank account, but the department rejected the recommendation to cleanse its disqualified persons list of people who should not be on it, which is again curious.

I cannot be the only Member of your Lordships' House whose email inbox has been inundated with the pleas of EU citizens and their spouses on this amendment—in fact, I know from this debate that I am not. We have to ask why this is the case. Why this particular amendment? As has been noted, Australia took 19 years to migrate one category to a digital status only. What of the inevitable inaccuracies of such a screen? What of when the system goes down, as it most assuredly will? What of those who do not remember the email address with which they registered? What of those, especially the elderly and perhaps more vulnerable, who might have relied on a neighbour or a charity who used an email address unknown to them? Such a person is trusted with a library card but not with something tangible—something that fits into a wallet or purse and identifies them more easily than the frailty of any app is yet able to do. Indeed, it is curious—my favourite word this evening—that we should go out of our way to make the lives of others so difficult. There is simply no need to do this and we should not do it.

In designing a system for administrative convenience rather than accommodating the realities of daily human life, we risk visiting unnecessary and avoidable difficulties on many of our fellow citizens. That is why I support the amendment and hope that the Minister will accept it.

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, it is a pleasure to follow the right reverend Prelate the Bishop of Southwark. I fully commend and support the amendment for EU settled status, in the names of the noble Lords, Lord Oates, Lord Polak, Lord Kerslake and Lord McNicol of West Kilbride. This is a very moderate amendment, as the noble Lords who spoke before me clearly stated, and it makes a very simple request to which I hope the Minister will be able to accede.

By way of explanation, I will quote from a letter I have received. As noble Lords have stated, we have all received letters and emails from people throughout the UK who are EEA citizens and deeply concerned about this. It states:

> "For some reason the Home Office is only giving EU nationals a digital status, which is a source of great anxiety to EU citizens that I know. Given how important it will become to prove your right to reside in the UK after Brexit, it is puzzling why the Home Office is only giving EU nationals a digital status rather than being able to present a plastic residence card with their photo and biometrics in it. They have to request employers and landlords to access a Home Office database by providing a code."

As we have seen in your Lordships' House, digitisation can work very well the majority of times, but there are times when it does not work at a satisfactory level. If that happens in this case, with people applying for settled status, it could cause anxiety if they cannot gain access. It will cause them considerable levels of worry. I therefore urge the Minister to give careful consideration to this well thought-out amendment and to remember that such a biometric card should be made available if it is so required.

8.45 pm

I have a certain sympathy with the case made by the noble Lord, Lord Alton, who referred to his late mother coming from the west of Ireland. In my case, my late aunt came from the Republic of Ireland to work in Plymouth. She had no particular qualifications, but she felt more at ease whenever she had her identity card and that necessary permit. It may be a difference of some 70 or 80 years, but I think the principle remains that people feel happier when they have access to proof of identity, by which I mean a biometric card or a document. For that reason, I urge support, and I am glad to see that the noble Lord, Lord Oates, will be moving this to a vote, which I will be very happy to support, because of the level of support in the wider community in the UK and because it is eminently sensible to underpin the settled status of our EU friends.

Lord Paddick (LD): My Lords, I support my noble friend's amendment and the powerful, eloquent arguments he put forward, honed by the noble Lord, Lord Polak, and the compelling arguments of the noble Baroness, Lady Bull, and supported by every other speaker so far in this debate.

I hate to bore the House by repeating what I have said before about those entering the United Kingdom to visit, without a visa, who want to rent a property for the six months they will be here. The Government say that these people—and from 1 January they will be EEA and Swiss nationals—have to produce to the landlord physical proof of their nationality and the fact that they entered the United Kingdom within the last six months.

It has been confirmed to me by the Minister that there are no plans to have any digital proof of the status of those EEA and Swiss nationals visiting for

six months that a landlord would be able to access to confirm that they can rent the property. So, we have a situation where, if an EEA or Swiss national, after 1 January, wants to rent a property for more than six months, they need a digital-only proof that it is possible, but if the EEA national has entered the United Kingdom within the last six months, it is solely physical proof that the landlord needs. There are no plans to change that process in the future. So, any argument that the Government are moving to a wholly digital system in the future is not true, certainly in relation to the circumstances I have outlined, which, therefore, knocks away a major argument of the Government's against this amendment.

Baroness Masham of Ilton (CB) [V]: My Lords, over the years, I have often received pleas for help to support various campaigns. But over the last few days, like other noble Lords, I have been inundated with a multitude of emails—over 80—asking for support with changing a digital-only immigration status to one that has hard copies as well. I support Amendment 18. A digital-only immigration status will create new barriers for EU citizens, especially the elderly and the most vulnerable, who may not have the necessary skills and equipment. They need alternative ways of accessing services. This is not a fair way to treat our friends and neighbours.

EU citizens can prove their new immigration status only through the Home Office website. What happens when the website fails? Websites do fail. There should always be a back-up. Does the Minister agree? What happened on Wednesday and today are an example. Is that not a sign that this amendment should be accepted? In addition, if any one part of the digital checking process fails, people without a physical form of back-up will be vulnerable.

There should not be a two-tier system for proving the right to stay in the UK. There should be an acceptable system for all citizens in the UK and in the EU. I have a god-daughter living in France who is married to a Frenchman. This Bill is inhuman. Many EU citizens living in the UK own property, having paid their taxes. They have acquired settled status, but without physical proof of their identity they are really concerned. The letter they received states clearly that it is not proof of their identity. If they do not have hard proof, they feel very vulnerable. They need physical proof of who they are and of what rights they have earned. I congratulate and thank the noble Lords who have tabled Amendment 18, which I support.

Baroness McIntosh of Pickering (Con): My Lords, I pay tribute to the noble Lord, Lord Oates, who spoke so eloquently to this amendment and will show a little solidarity with him as we approach our fifth anniversary: we were introduced to this place on the same day. I congratulate all those who have had the courage to sign this amendment. I declare my interest as chairman of the national Proof of Age Standards Scheme board and as a previous chair of the ad hoc committee of this place on the Licensing Act 2003. I should also declare that my mother became a naturalised Brit in 1948 when she met and married my father and moved to Britain in that year.

I welcome the digital age but, as the recently concluded consultation on developing UK standards for the physical presentation of digital proof of age that the PASS board undertook showed, while there is a future role for digital, physical checks provide important safeguards, as witnessed by the many emails that I, like other noble Lords, have received in preparation for this debate.

The noble Lord, Lord Oates, referred to the two recent technical failures in this Chamber which highlighted the current limitations of digital technology. I also refer to my experience, which was shared by the noble Baroness, Lady Ritchie of Downpatrick, when in 2014 or 2015 Defra decided it would go to digital-only applications for farm payments. In the teeth of fierce opposition from the EFRA Committee, which I had the honour to chair at that time, and from across the House in the other place, we persuaded the Government to move from digital-only applications to paper applications as well for many of the reasons that my noble friend Lord Randall gave. In North Yorkshire, there are many pockets, particularly in the Vale of Pickering and the Vale of York, where the mobile signal is woeful and broadband is very poor. You have farmers trying to log on to apply for their farm payments while their school-age children are trying to do their homework, and there is simply not the bandwidth for that.

For these reasons, I urge my noble friend, who is held in respect and affection in this place, to set aside digital only when she sums up the debate this evening. I can find no reason in my heart or my conscience to vote against this amendment, and if it is pressed to a vote I shall certainly support it.

Lord Judd (Lab) [V]: My Lords, the noble Baroness, Lady Masham, was absolutely right to remind us of what has just happened in the Lords last week and this week. Modern technology is not perfect, and the trouble is that it has so much authority—in the sense that it has become so indispensable—now in the handling of affairs that, when it fails, there are very serious consequences. There is nothing more serious to think about than someone who is not altogether secure, who is in a situation where identity and status proof are being demanded, finding that the system fails. It is extraordinary that, in the light of what we have just been through, there should be any continued resistance whatever to the proposition in this House.

With all his front-line experience, the noble Lord, Lord Paddick, spoke very convincingly about the real situations in which people find themselves, where the inability to produce physical evidence plays into the hands of ruthless landlords or whatever. It seems to me that we must also recognise that the elderly and frail are not comfortable with modern technology—if they have it. They really want and need something in their hand that establishes their authority and status.

In the EU Justice Sub-Committee, on which I was glad to serve for my allotted time, we wrestled—as the noble Lord, Lord Polak, will remember because he was a fellow member—with this very issue on quite a number of occasions. We could not get a rational or reasonable explanation for why it was impossible to

[LORD JUDD]
contemplate producing this document. I try not to be a cynic or sceptic, but I cannot have been alone in beginning to wonder about what it is that is behind all this. What is the real reason that there is so much determination to resist?

This is because, as the situation stands, all the power is in the hands of the Government and the Home Office; the individual has no equal standing available in a physical document to produce, for whatever reason or need, the evidence of how the situation really is. One thing that—over many years in this House and quite a number of years as a Minister—I have always worried about is that we may have reasonable Ministers in the present age, but what happens when they move? What happens if we get a ruthless Home Secretary who seems to see the opportunities here for being able to undermine the status, stability and well-being of people in this predicament?

I keep saying—it may be a little irritating, but it is true—that I have enormous personal respect for the Minister handling this debate. She is a decent person. Of that, I am totally convinced. I ask her to try to produce this evening some determination to take the seriousness of this point on board and produce the necessary document. I am glad to support the amendment.

9 pm

Lord Horam (Con): My Lords, it is always a pleasure to follow the noble Lord, Lord Judd, who invariably speaks with eloquence and passion. I was also delighted to hear the speeches of the noble Lords, Lord Polak and Lord Alton, especially in view of the misery they are feeling about the Liverpool result over the weekend. I speak as a Manchester United supporter and I share their misery.

This debate reminds me of the time, some years ago, when the Government of the day asked pensioners to sacrifice their pension books, which they took to the post office, for payment directly into their bank accounts. At the time I was the MP for Orpington, trying to defend a majority of 269. A Labour Government perpetrated this change and it was manna from heaven, frankly. I remember waxing on about the heartlessness of a Government who took away from old-age pensioners the comfort of the book that they took to the post office every week. It was hard-hearted but, in retrospect, the direction of travel was entirely right. The issue is always how it is handled and the time you allow people to make the adjustment necessary in the circumstances. This is happening here.

It has been pointed out that the Australian Government now have an entirely digital system. As my noble friend on the Front Bench knows, I have been a supporter of the Australian system that they have partly converted to, but not wholly—not enough. The truth, as pointed out in the excellent speech of the noble Lord, Lord Oates, is that although the Australian Government have gone to an entirely digital system, for eight years they allowed people to have a paper system for no cost, and for a further three years they could pay to have a paper system alongside the digital system. For a total of 11 years, they allowed this change to take place. The Government are expecting this to happen by next July. The reality is that it will not. Can anyone imagine this sort of digital change taking place by next July, with all the uncertainty we have heard about with digital behaviour of this kind? I think not.

I wish the Minister not only to think about the greatest happiness for the greatest number—as said by the noble Lord, Lord Kerr—and to look at things from the point of view of ordinary people, as all Governments should, but to avoid a U-turn, which they will probably have to later if they do not listen to what we are saying tonight.

Lord Cormack (Con): I take some comfort from that, because this Government have shown themselves to be fairly good at U-turns. I hope we see one this evening. In 50 years in Parliament, I have never been more perplexed by any debate and the obduracy of a Government without a cause that is defensible.

What we are doing here is willingly inflicting pain and worry on people who have often served our country, who love our country, who wish to continue to make their life in our country and who make enormous contributions to our country. We are saying to them—I speak as a digital agnostic—"You do this, or else." It is an indefensible position. I joke about my own position because, until we went into lockdown, I had never possessed a computer, never used a computer and never had any desire to use a computer. I do it now and, with the aid of the wonderful digital support service we have in the House, I have been able to make many speeches on the screen and have attended numerous meetings through Zoom and Microsoft Teams—and I have hated every one of them.

We should be a tolerant House. Tolerance is one of the defining characteristics of the British people, yet we have seen it crack in several places over the past few years. Many of the letters that your Lordships have received, as I have, from truly worried people speak about the creeping xenophobia in our country following Brexit. As everyone in your Lordships' House knows, I deeply regret that decision, but I have always accepted it. I argued passionately for Mrs May's deal—Lady May, as she is now. Many of those people feel less wanted. That is extremely sad.

There are one or two things that we should all bear in mind. In his splendid introduction to this debate, the noble Lord, Lord Oates, to whom we are all grateful, referred to the Horizon scandal. It is reaching the end almost as we speak, but not the end for those who suffered—not the end for those who were told that here was a perfect digital system that could not conceivably be wrong; no, that was wrong. We should also remember Windrush—people put into a position of terrible distress because their bona fides were not accepted. Surely we can learn from these things. Surely we can learn from the experiences to which many of your Lordships have referred last Wednesday and this very day. We are not dealing with perfection; we are dealing with clever systems that can frequently let people down. My noble colleague talked about the farm payments scheme. I had many in my former constituency who lived in parts of Staffordshire where there was not good reception. Some of them were driven almost demented by it and the Government saw sense.

Many of your Lordships have paid deserved tribute to my noble friend on the Front Bench. She has shown herself to be a colleague who understands this House and who tries to give time to people who have worries about various aspects of government policy—she will have been very busy recently. I want to say to her directly: please do not let yourself down. Go and see the Home Secretary tomorrow and tell her that you tore up your brief, because it is not worth having. There is no logical, sensible answer to this extremely modest proposal. My noble friend would earn more than an accolade—she would deserve a halo—if she said, "You have been talking sense; I have been talking rubbish, and we are now going to put it right."

The Earl of Dundee (Con) [V]: My Lords, it is a pleasure to follow my noble friend Lord Cormack. I certainly support this amendment, moved so ably by the noble Lord, Lord Oates, and its proposed new clause requiring the Secretary of State to issue physical evidence of migration status.

To start with, as has been said, we might well be disposed to approve of a system which is entirely digital, dispenses with cards or paper, and is quick, slick and nicely up to date. In this case, however, although well-meaning, such a system is flawed. That is even so in general, thus for numerous purposes and types of daily use, regardless of the particular and sensitive context of migration status at all. Consider driving licences, student ID cards, pensioners' bus passes, national insurance cards, and so on. Suppose we could not use these and had to go online instead; at best, this would be frustrating and, most of the time, extremely annoying. It is so much easier to have a card or piece of paper immediately there in your pocket or in the file which you keep at home.

All the more so would it therefore be unsatisfactory—something which this amendment corrects—if evidence of settled status could be provided only digitally. As so many of your Lordships have already emphasised, digital-only immigration status will create new barriers for EU citizens, especially the elderly and most vulnerable, who may not have the necessary digital skills. That apart, if and when some aspect of the digital process fails—which is quite a frequent occurrence—people without a physical form of back-up will obviously be disadvantaged.

Conversely, even when the process may go as smoothly as it can, many still fear lengthy, contorted, multistep sequences involving presentations of passports, birth dates and unique one-off codes sent to mobiles, followed by both parties having to access the Government's website separately. Worse still, a recent study has shown that the majority of landlords do not want to accept a digital-only proof, stating that they do not trust it.

For these reasons, I am sure that my noble friend would accept the amendment of the noble Lord, Lord Oates, or produce a government one corresponding to it.

Baroness Deech (CB) [V]: My Lords, only today we have seen another example of centralised government technology failing: namely, the PHE Excel spreadsheet not counting all the coronavirus statistics. We know what happened to some Windrush immigrants whose proof was destroyed.

I am happy to admit that when I began to enter the House of Lords, I had to establish my British nationality. That involved finding proof of my father's naturalisation as a British citizen in the late 1940s. To my amazement and pleasure, there was the document in the small pile he had left me when he died. We should not forget future generations who may need a piece of paper. I shall never forget the comfort of having that piece of paper.

Employers and landlords will look for it. I surmise that, if they are told to check online, this could be an obstacle to the offer of housing or employment when time is of the essence. Older people may not be familiar with the technology—another demographic that the Government sometimes forget: for example, in relation to the NHS track and trace app, where the considerable numbers of older people who do not have smartphones are simply ignored. Moreover, hard copy of proof may be a requirement when an entitled person travels abroad or when there is an emergency and no access to a phone or the internet is possible.

Failure or hacking of the digital system will be catastrophic and are by no means unforeseeable. Of course there could be both digital and paper evidence as a back-up. For those reasons, I support this amendment and urge the Government to do the sensible thing and provide a paper proof of settled status.

9.15 pm

Baroness Neville-Rolfe (Con): My Lords, I always enjoy the company of the noble Baroness, Lady Deech, and her own story is compelling. Those who tabled this amendment have put their case very well. I sit on the European Union Committee with the noble Lord, Lord Oates, and we quite often make similar-sounding points. My noble friend Lord Polak has done much for the Conservative Friends of Israel.

We are debating a legislative requirement to provide physical documentary proof as well as digital proof under the EU settlement scheme. It is a very important debate and I wish to highlight three further issues which need to be given some weight. First, if there are two sources of the truth, the digital database and a physical document, what happens when they differ? This can cause difficulties for the individual, as I know from a family member settled in France but with a misspelled name on his French papers. A discrepancy between the two may also be grounds for appeal. We really do not want to create yet another pretext for expensive appeals, creating cost and delay, encouraging people to abuse the system and making it harder for those in genuine difficulty.

We have heard from the Minister that those in the settlement scheme will get a letter, or a PDF sent by email, setting out their status. This can be kept if it is physical, run off if it is an email, and/or stored electronically. Most of us here probably visit the US in a private capacity, and so will be familiar with ESTAs, where the permission to travel is online. We need one simple, single, consistent and reliable system of identity. We also need one that is not prey to fraud. As time passes, the permission to settle will become a valuable right. Physical documents, even when backed up by high tech, are too easy to fake.

[Baroness Neville-Rolfe]

Secondly, I would like to know the cost of this proposal. Is it a minor change, as has been argued, or a major one? I appreciate that the physical document will be provided only on request—a clever detail from the movers of the amendment—but in practice almost everyone will ask for a physical document. You would be mad not to, given that it is free under the terms of this amendment—so I fear that this will be costly. We know that some 3.9 million EU and EEA citizens have already applied to the settlement scheme. What is the cost of providing, delivering and policing over 3 million fraud-resistant documents? This question of cost and price is important; an estimate was also asked for by my noble friend Lord Polak. Perhaps the Minister could kindly give us an estimate before this is voted on—but, in my view, providing such documents for free is, in principle, wrong.

Finally, as noble Lords know, the future of ID is digital. As many have said, the direction of travel is right. I pressed the Minister on digital rather than physical ID when debating the legislation on coronavirus and the need for secure ID, for example for the enforcement of licensing laws and other age-restricted activities. Attitudes to digital have much improved during the crisis and we should take advantage of that in this Bill, but clearly the Minister needs to answer concerns about the failure of any new system. The US system is normally very robust indeed, and quite simple once you have answered their questions. Many businesses and financial institutions have digital systems that are extremely reliable, as I know from personal experience.

Any problems with vulnerable groups and internet blackspots can and should be dealt with as part of the forthcoming implementation plan for this huge change. The communication campaign, which we heard about earlier on Report, on the new immigration arrangements, provides a huge opportunity to chart the way ahead. I mention in passing that a good model in the pre-digital age was the 1992 campaign by the DTI, ironically on the creation of the single market. Careful planning and considerable investment in advertising, and in assistance for individuals and businesses, all led to a favourable outcome. The Home Office, under great pressure today I fear, may be interested to know that this also had a favourable effect on people's perception of the department and indeed on its ability to recruit top talent.

Returning to the main issue, for all these reasons I am uneasy about this superficially compelling, simple amendment. I look forward to the Minister's reply, endorse all the kind words that have been said about her talent and hope that she can find a way through this evening, and that colleagues will listen to her, think again and support the Government.

Baroness Shackleton of Belgravia (Con): My Lords, I thank the noble Lord, Lord Oates, for tabling this amendment and give him my support. It is with a heavy heart that I do so, against my Government—my party.

I sat on the European Union Justice Sub-Committee with the noble Lord when we took hard evidence. We invited the ambassadors for all the EEC countries to come and talk to us and share their concerns, which were twofold. The first was that the applicants were made to feel unwelcome when they were asked to apply. They had to go through the Herculean task of proving something in circumstances where many of them had been super-contributors to our country—where we should have welcomed them with open arms. It looked as if we were doing them a favour in accepting them if they wanted to stay with us, not treating them as our equals. This was simply inhumane and there was no explanation for that.

Secondly, when they got to the very bottom of the task and were eventually accepted, they asked whether they could have some physical proof. They were denied it without any rational explanation whatever. I happened to chair the meeting to which we invited every single ambassador—it was in a large room, as we could convene in large rooms in those days. I asked them to share with us the single most upsetting feature of applying. To a man or woman, they responded that the lack of physical proof was the highest, the most frequent and the most troubling.

I not going to repeat the many speeches that have been made tonight because the night is getting long, but I want to add one other feature: cybersecurity. The reason I stand here tonight and am not being hooked up from home is because I am, as I have advised Black Rod, a victim of being hacked through my telephone. My parliamentary email, my own email, my WhatsApp messages, my pictures and my texts are all visible to somebody else. The future of crime is not only the nuclear problem; it is the cyber problem. With one swipe of a button, it affects the system. We have talked a lot about general accidents, not being able to connect and the mistakes that prevent us voting. We have law courts which sit virtually but crash in the middle of a hearing. But if we are under attack and somebody wants to cause serious grief to us as a country, this is what could be done in the absence of any back-up.

If this happens to the people who we are so lucky to have—I share the right reverend prelate the Bishop of Southwark's view on this—we are simply not acting in a humane way. We are not treating our fellow citizens in the same way as we would like to be treated. The reciprocal arrangements in embassies across Europe are that British people are entitled to get proof there—they give it out free. We should take notice of that and reciprocate with similar willingness.

Finally, I want to close by saying this: it is never too late to right a wrong. I have enormous respect for my noble friend the Minister. I hope that she will listen to and take to heart the compliments paid to her personally. I hope that she will look into the abyss and feel that, tonight, we have done something useful to help the very many people who have written to ask for our support in what, for them, are extremely troubling circumstances.

Baroness Hamwee (LD): My Lords, this debate would not be complete without thanking the very many individuals who have been in touch with noble Lords to express their strong views and very real concerns, nor would it be complete without thanking the 3million—although perhaps that organisation should be called "the almost 4 million", as we now know. We have to thank every voluntary organisation, the many people affected and those making their views heard, as well as the few who work so hard on their behalf and have been so effective in passing those views on to us.

The Minister in Committee made a long, careful speech which, on rereading, did not seem to address the amendments but rather was a speech responding to what she expected to hear, not to the individual points that were made. The noble Baroness, Lady Bull, has again spoken about people in abusive and coercive relationships, as she did then, and about people with impaired capacity, but there was no answer about the latter. With regard to the former, the Minister said:

"We are committed to delivering a service that reflects the diverse needs of all users."—[*Official Report*, 14/9/2020; col. 1094.]

How does that answer the point? Coercive control could cause—I was going to say "just"; it is not "just", but noble Lords will understand what I mean—not just a difficulty in renting or a lack of getting the job that one wants; it could actually mean trapping the individual in that relationship.

I mentioned Australia at the last stage, as some noble Lords have done today, and the length of time it had taken to make everyone comfortable with purely digital arrangements. The Minister commented that, in Australia, the physical documents are issued in the form of biometric cards. Again, how did that answer the point? This amendment is not opposing the digital system; it is about having additional physical proof for those who ask for it.

From time to time, a proposition in this House takes off because there is something about it that feels very real; noble Lords support it intuitively—and sometimes rationalise that intuition after they have come to the view. The intuition tells them that they have got their fingers on the pulse of opinion. It also, in this case, resonates with our appreciation of citizens who have been a part of our community and who we want to see remaining as part of our community.

I congratulate the speakers who I know do not want to go against their own Front Bench but who are prepared to speak out—I do not suppose that they enjoy doing so. The debate has been impassioned and almost unanimous. I cannot offer the Minister a halo, but she will have an opportunity after the vote, which I expect to be overwhelming, to pass on noble Lords' arguments and the strength of feeling. She can do that behind the scenes. She is so respected in this House, and I hope that knowing that will buoy her in the task in front of her, because we must achieve this change.

9.30 pm

Lord Kennedy of Southwark (Lab Co-op) [V]: My Lords, the noble Lord, Lord Oates, has given us an authoritative, commanding, clear, direct and confident explanation. The noble Lord can do that because of the power of the case he presented: it is simple, clear, and it is just the right thing to do. We on the Labour Benches will support the noble Lord when he divides the House.

As the noble Lord, Lord Polak, said, EU citizens need to be treated fairly, properly and with respect. The Government have provided nothing to justify what they are proposing to do. I also note that there has been only one speaker tonight in support of the Government, and that is out of not only the Members of the Opposition but the eight speakers from the Government Benches tonight.

The noble Lord, Lord Oates, reminded the House of the problems you can get yourself into if you are a landlord. There are serious penalties if you have not checked documents to ensure the person you are renting your property to is somebody who is entitled to rent the property. If you are an employer, you have to check documents to ensure that the person you are employing has the right to be employed. If you get those wrong, you face serious penalties.

I know that if I was in the position of these individuals, I would want a physical document, physical evidence or physical proof that I could put away and, if there was a problem, some years later get out and then justify that I actually had the right to live and work in the United Kingdom. I think we should not underestimate the stress and the worry—we have all seen from the emails we have received how concerned people are about the position of the Government. I think the noble Baroness, Lady Bull, gave a very powerful case on the question of domestic abusers and how abuse is often about control. Here we are, potentially putting people at risk again, having to go back to their abuser to give them that control over their lives again. We need to be very careful here.

Noble Lords who were at the debate in Committee will recall me explaining that I live in Lewisham, and I have done very many citizenship ceremonies where somebody becomes a British citizen. They get a letter from the Home Office and they are told to contact their local authority, and they ring up Lewisham Council—where I live—and they book a place at the next available ceremony. They come along, they bring their letter from the Home Office and they have it checked. I am there as one of the people who officiates at the ceremony, and the registrar—the person who normally does births, marriages and deaths—explains to people how important what they have done is and how proud they should be to be a British citizen. We sing the national anthem, the members swear an oath of allegiance to Her Majesty, and in the final part of the ceremony the individuals come up one by one and I hand them a paper certificate. These are signed by the Home Secretary; I have handed them out from Theresa May, Sajid Javid and Amber Rudd. I am absolutely confident that today in the Home Office there are people running off certificates signed by Priti Patel. That is the ludicrous situation we are in.

The Minister did not answer this point when she replied in Committee, but I hope she can address this point tonight. Can she please explain, for me and the House, the logic of and justification for the Home Office refusing individuals who have been granted EU settled status a physical document but, exactly at the same time, requiring those individuals to be granted British citizenship, to attend a ceremony, and at that ceremony be handed a certificate and be told by the official at the ceremony how important this document is? They are told, "You must check it before you leave, it is a really valuable document and you need this", and how important it is. I cannot see the logic of that argument—it is nonsensical and ludicrous—and I do hope the Minister can address that point. At exactly the same time, not only the same Government but the same government department—talk about facing two different ways at once—are creating this ridiculous position.

[Lord Kennedy of Southwark]

I hope that the noble Baroness can step back and look at this farcical situation that the Government are seeking to justify here tonight. As many other noble Lords have said, she is highly respected. I like her very much. As a Minister, she has always been willing to engage with me outside the House and I have been able to raise things with her. I have appreciated that very much. However, I hope that she can go back to the Home Office, speak to the Home Secretary and explain how ridiculous this situation is. These certificates have been handed out with the present Home Secretary's name on them.

In conclusion, I agree with the right reverend Prelate the Bishop of Southwark. We risk appearing to go out of our way to make the lives of our fellow citizens as difficult as possible. As the noble Lord, Lord Cormack, said, we should be a tolerant House and not seek to do that. There is no justification for behaving or acting like this. The Government are not being reasonable. I hope that they can accept the amendment but, if they do not, I have no doubt that it will be carried overwhelmingly tonight in a Division.

Baroness Williams of Trafford (Con): My Lords, I think that there is one thing on which we can all agree this evening—that it is not a great week to be promoting the benefits of technology, and the difficulties have arisen on the immigration Bill as well, which is very irritating.

It is also true to say that, when speaking, the noble Baroness, Lady Bull, for example, absolutely relied on her iPad, and rightly so. It has been great to see noble Lords trusting the technology. In fact, it is probably fair to say that the past six months have seen us very reliant on technology, and for the most part it has not let us down. In addition, it has staved off loneliness for many people. I congratulate the the3million group on engendering concern on this matter but I hope—in fact, I know—that in the same way as noble Lords have thoughtfully addressed that concern, they will also listen to the points that I will be making this evening.

I think that it was my noble friend Lord Horam who talked about when the post office book was abolished. In fact, I remember when the children's allowance book was abolished. I really did not trust that the money would be put into my bank account. More recently, the tax disc has been abolished. There is no paper record of you having paid the tax, but somehow the police know that you have because of the technology.

I thank the noble Lord, Lord Oates, for so thoroughly outlining his case and for providing the House with the chance to discuss the issue of physical documents for EEA citizens who apply under the EU settlement scheme. He knows that I will not agree with him and will try to argue that it is a hindrance to modernising our immigration system. He asked me about the policy equality statement. I understand that it will be published shortly.

Some noble Lords—in fact, I would say almost all, other than my noble friend Lady Neville-Rolfe—expressed concern about the move to providing access to immigration status online to EEA citizens granted leave under the EU settlement scheme. Like many other government departments, we are moving our services online and there are noble Lords who support digital systems, albeit maybe not in the context of this evening.

The noble Lord, Lord Oates, attested that those protected by the withdrawal agreement do not have their rights underpinned by legislation, but of course they do, through the withdrawal agreement Act. Moving to online services is part of our declared aim of moving to a system which is digital by default, whereby all migrants, not just EEA citizens, will have online access to their immigration status, rather than having physical proof. They will be able to access their immigration status online at any time and from anywhere via the view-and-prove service on GOV.UK, which is available through a variety of devices ranging from smartphones to desktop computers. I am very impressed to hear that my noble friend Lord Cormack has availed of the last few months to use computer software. I never thought I would hear him say that.

All this represents a major change. We have recently seen a real shift in how people behave; in the culture and habits of how the Home Office issues proof of immigration status, and the way in which migrants and others will be able to use this. Of course, we want a robust and secure system that is both efficient and convenient. My noble friend Lady Shackleton pointed out the horrors of having anything hacked. We are at the beginning of this important journey and we recognise that some people may not see it this way, but I urge noble Lords to persevere and let us see this journey unfold properly in a systematic and focused way. We have to commence change somewhere, and the EU settlement scheme has provided the right opportunity.

Noble Lords may remember that, not too long ago, we introduced a new application process for the settlement scheme based on a smartphone app. There was an absolute outcry against it, with press stories and complaints about people not being able to use it or adjust to this new way of making an application. However, this process has proved to be a success and over 3.9 million—almost 4 million—people have used it since its launch in August 2018. I challenge any noble Lord who has not seen the process work to take the time to do so. I will arrange for them to have a look; it is very simple. Change obviously brings complexity and resistance, but we have to embrace it and ensure the right mitigation and support for those who need it most. We have done that through the measures I have outlined previously.

As I said earlier, recent events with Covid have highlighted how vital it is that government systems and services are accessed digitally. As a result of the restrictions placed on the public by the pandemic, we have seen a sharp uptake in providers of services moving online and people have shown their ability to adapt. Digital services have enabled this country to cope during the pandemic, enabling many people—not us, obviously—to work from home, shop and obtain government services remotely.

Our online service has enabled many employers to conduct remote right-to-work checks on foreign national employees since January last year—nearly two years. This has removed the need for physical documents to be handed over, enabling social distancing rules to be

followed and reducing contagion risks. This service is available to non-EEA holders of biometric residence cards, or biometric residence permits, and to those granted status under the EU settlement scheme. It represented the first step in our journey to make evidence of immigration status accessible online.

Making this status information available via secure online services has also meant that we can simplify and standardise the system of checks for employers, by providing information about an individual's status in a format that is easy to understand and accessible to all users, removing the need for employers, and others, to authenticate the myriad different physical documents and interpret complex legal terminology or confusing abbreviations. This service provides employers with a secure, auditable record that they have conducted a check on the employee, which they can store electronically. There is no need for them to check whether a document is genuine, or to go through the process of photocopying it, signing and dating it and then filing it away in a folder or cabinet, all of which they have to do when relying on a physical document.

For those individuals, including employers, landlords and other third-party checkers, who have not already made use of the online service, we are developing an extensive package of communications to ensure that everyone is fully aware of the move to digital and how online immigration status can be accessed and used. The noble Lord, Lord Paddick, again brought up the issue of the physical document to enable renting. It does enable people to rent, but it is not a proof of status.

9.45 pm

However, I reassure noble Lords that EEA citizens who are granted settled or pre-settled status will continue to receive a document which is a formal written notification of their leave. This is in the form of a letter sent by post, or a PDF document sent by email, which sets out their immigration status in the UK. They can retain the letter sent by post or print or electronically store the PDF document and keep it as confirmation of their status for their own personal records and for use when contacting the Home Office about their status. That should reassure individuals that they can prove their status when dealing with the Home Office in the future. If necessary, EEA citizens can show third parties their written confirmation of status, and it includes details of the "view and prove" service so the person checking their status can see that there is an online service where they can check the individual's status. I must stress that the written notification is not in and of itself sufficient proof of status for right to work or right to rent, because it is not a biometric document. Nevertheless, it is a physical missive.

In Committee, the noble Lord, Lord Kennedy of Southwark, pointed out that we still issued paper certificates on granting British citizenship. He is absolutely correct, and I have written to him on this point. We have been issuing naturalisation certificates since long before we were able to digitise immigration status documents. The primary purpose of the naturalisation certificate is to act as a record of an event and, as he said, it is normally handed out at citizenship ceremonies to commemorate the occasion, and new citizens keep it secure and often frame it with pride. Most newly naturalised British citizens go on to apply for a UK passport to use as evidence of their status and would not need a digital status.

I know that noble Lords are worried about the impact of digital by default on the elderly and the vulnerable, but I assure them that we are taking steps to ensure that those individuals are not disadvantaged by the move to digital services. We are also developing services to make the relevant immigration status information available automatically through system-to-system checks, with other departments and the NHS. This will mean that at the point at which the person seeks to access public services such as healthcare and benefits, that service provider will check status directly with the Home Office, thereby reducing the number of occasions where individuals need to prove their status or need a document to do so.

In moving to a digital system, we also recognise there are people who cannot access online services and who need additional support. We are committed to delivering a service that reflects the diverse needs of all users. Either the noble Lord, Lord Oates, or the noble Lord, Lord Alton, mentioned the Roma. Help on how to use the online service and share status information is available through our telephone contact centre, and we provide a free-to-use assisted digital service where applicants to the EU settlement scheme, or others making online applications in the UK, are able to get support. This assistance is tailored to an individual's circumstances. We also provide a telephone helpline for landlords and employers to provide guidance on conducting right-to-work and right-to-rent checks, and we are exploring additional support options for those using our online services to ensure that they are fully able to demonstrate their rights in the UK.

We will require EEA citizens to use the online service to prove their immigration status only after 30 June 2021, although many are using it now. That may go to some of the questions that the noble Lord, Lord Kerslake, and other noble Lords asked. We will have major campaigns to promote and publicise digital status to employers and other providers to ensure a successful transition by next summer.

To answer the noble Lord, Lord Kerslake, it is worth pointing out that migrants and providers are already getting used to checking and sharing status digitally. In the last reporting period, from April to June this year, there have been over 400,000 views of the "view and prove" service by migrants. In the same period, there have been over 100,000 checks of EU settlement scheme status by organisations. The average user satisfaction score across the migrant and checker sides of the online service, for the same period, was a positive 88%. We have designed the service to be easy to use, but guidance will be available if required. This will include guidance for those who care for vulnerable users and for use by a range of stakeholders working with local groups, including vulnerable groups.

Both the noble Lord, Lord Oates, and the noble Baroness, Lady Bull, raised concerns about those who may be in coercive or abusive relationships, or victims of modern slavery, being denied access to their immigration status information. That problem already exists with

[Baroness Williams of Trafford]
physical documents, which may be controlled by a third party who holds on to those physical documents. I assure noble Lords—I hope the noble Baroness, Lady Bull, is comforted by this—that there are processes in place to help those people regain access to their online information, in those rare circumstances in which a third party refuses to hand over access.

To answer the noble Baroness more fully, users are advised on the service log-in screen to contact the customer contact centre if they no longer have access to the mobile number or email address needed to access the service. Our trained call handlers will complete the necessary security authentication steps over the phone to be certain that they are speaking to the applicant. Once authentication is complete, the call handler will arrange for the log-in details to be manually reset with the new credentials provided by the applicant. This service is already being used by applicants who, for some reason, no longer have access to their online information.

As I have already said, we will replace biometric cards with access to online services for evidence of immigration status for all migrants, not just EEA citizens, over the next few years. These changes are being introduced gradually, in a way that builds confidence for users and provides opportunities for adaptations and improvements informed by user feedback.

The reason we rolled out our online immigration status service to EEA citizens granted leave under the EU settlement scheme first is because they will be able to use their passport or identity card until the end of June next year and, therefore, will have time to get used to transitioning from using physical documents to accessing and sharing their immigration status information online. Moreover, they have already enjoyed the advantage of being able to travel to and from the UK using just their passports or ID cards, unlike many of their non-EEA family members, who are required to produce a physical document demonstrating their immigration status to board for carriage to the UK. The online system is operating in parallel to existing document checks of passports or identity documents. The approach is helping employers, landlords and EEA citizens to transition from using physical documents to online services.

The concern about data security and continued access to status is essential. We have built our systems to ensure that digital status is accessible 24 hours a day, 365 days a year. Our digital services are designed to be highly resilient, with rigorous testing to build assurance before the services are seen by a user. To answer the point of my noble friend Lady Shackleton, multiple security controls are in place to protect against cyberattacks. We have employed third-party organisations to conduct vulnerability and penetration testing to provide additional assurance that our online services cannot be compromised. Services and components are engineered to be highly available and are deployed across multiple data centres, meaning that, if one fails, another will take over. By backing up our data and services—I think she even used those words—in this way, we can maintain services without any disruption to users.

Services and their constituent parts are also monitored for failures, which will highlight any potential problems to allow support teams to triage and resolve as quickly as possible. Individuals are able to contact the Home Office in the event of any issues being encountered. We have secure authentication procedures in place to verify an applicant's identity and status, using internal databases. Applicants and users can also refer to their written notification when engaging with the Home Office.

This amendment, if accepted, would, in practice, require the Government to issue a secure biometric document. If it is to serve as proof of status to third parties such as employers and landlords, and as we need to reduce the risk of document fraud, this would mean issuing biometrics cards, which would incur a significant and unfunded cost, not a small, insignificant cost. Any offer of a physical card, whether or not anyone chose to avail themselves of it, would result in non-recoverable fixed costs being incurred. However, the real cost of administering such a scheme would lie in the volumes of people choosing to obtain a card. That is the real unknown here. The amendment is based on those who want a card, rather than those who need one.

In respect of the questions raised by my noble friends Lord Polak and Lady Neville-Rolfe, if the report by the 3million group is correct, and 89% of all EEA citizens who have already been granted status under the scheme are discontent with the lack of a physical document and would choose to apply for a card, that cost would be over £100 million. If only 2% of people, the over-65s, were to ask for a physical document, the cost would be several millions—we estimate about £5 million but I am relying on the 3million group which thinks that 89% of all EEA citizens will want this physical document.

Equally, those under 65 may be vulnerable, less able to access digital services or may just want a card for additional reassurance, as has been suggested in this House. So, this just provides a starting benchmark when, in reality, we expect the volume of demand to be higher, particularly given that the amendment specifies that the card must be free of charge. Of course, any of these figures will grow if the overall numbers applying under the scheme continue to rise. These are just the costs of producing and processing the initial application for a card.

On top of this, we would need to incur ongoing maintenance costs to replace lost and stolen cards or reissue cards following changes to personal details such as names and following marriage. As it is a physical document, you cannot just go online and update your details. We would also need to factor in new cards for those who transition from pre-settled status to settled status. The cost of communicating the process is additional. This will divert investment away from developing the digital services and support for migrants using those services that we need for the future. Third parties would have to continue dealing with physical documents, checking they are genuine, retaining copies to show that they have done so and generally requiring a more complex and bureaucratic process.

I thank noble Lords for listening so carefully during what has been quite a long debate, and one not without a high degree of concern. I hope that the costs I have

outlined—and the fact that 500,000 people are using various aspects of the digital system—will help some noble Lords to pause for thought before voting for this amendment.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, I have received one request so far to ask a short question after the Minister; that is from the noble Baroness, Lady Bennett of Manor Castle.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I am aware of the time so I will be very brief. For the record, the Green group is offering our support for this amendment. I have identified three questions from the debate which I do not think the Minister has answered. First, the noble Baroness, Lady Bull, asked about people who lack or lose mental capacity. To answer ID-confirming questions from a call centre—

10 pm

Lord Parkinson of Whitley Bay (Con): My Lords, I am sorry to interrupt the noble Baroness, but the Standing Orders make clear that she may ask one question on a point of elucidation, so perhaps she would choose her favourite of the three.

Baroness Bennett of Manor Castle (GP) [V]: That is really difficult. I will go to the question of the noble Lord, Lord Kerr, about being in an airport or train station and the fact that you have to have two pieces of technology working. The Minister said that the Government's systems will be wonderful but, of course, this relies on other people's systems. As the Minister said, our systems are great, but the noble Baroness, Lady Shackleton, said that she has had a problem; all of us have encountered those problems. Imagine that situation at the airport or train station: the clock is ticking, the queue is moving and the plane is about to go—and the systems are not working. What are people going to do and what situations will they be stuck in as a result?

Baroness Williams of Trafford (Con): I will say just two things to the noble Baroness. The first is that I hope I have explained in quite a lot of detail the level of security back-up inherent in this system. I also hope that she will acknowledge something that I have had experience of before: walking through an airport, I suddenly could not find my passport.

Lord Oates (LD): My Lords, I thank all noble Lords who have taken part in this debate, in particular, my fellow signatories to the amendment, my noble friends and—above all—those Members on the government Benches who have supported this. I know it is hard to do that when your party takes a different view, so I am very grateful to everybody for that. In view of the hour, I will not go through everybody's contributions; I hope noble Lords will understand that. I give my commiserations to my colleague, the noble Lord, Lord Polak, and the noble Lord, Lord Alton, over the trials and tribulations of Liverpool, and I am sure I will not endear myself to the noble Lord, Lord Horam, by telling him that I am a Spurs fan.

We heard compelling testimony from the noble Lord, Lord Polak, and a number of noble Lords across the House from people actually affected by this system. The noble Lord, Lord McNicol of West Kilbride, spoke about the future heartache and pain that will be caused if the Government will not move, and noble Lords across the House raised a whole series of points that I will not repeat.

In her reply, the Minister made a number of statements. She said that the system was very robust. We said at the beginning—as did other Peers, such as the noble Lord, Lord Cormack—that this is what is said about every system that goes wrong. She said that our data is all backed up. The Tokyo stock exchange had a back-up system; it failed as well. The noble Baroness spoke about systems such as the tax disc system, which is entirely electronic, and she is right to say that. However, we are not talking about the tax disc on your car; we are talking about your absolute status of having the right to stay in the country in which you have made your home. From the Windrush examples et cetera, we know how that can be threatened; we have very recent examples of this.

The Minister seemed to try to make out that some of us were against a digital system. I think everybody who spoke said that they understood and agreed with the need to move to a digital system. The noble Baroness said that we were on a journey, but do not start it with the more than 3 million people who feel most vulnerable about their status in this country. Start it with people who do not feel that way; trial it properly, as other systems have been trialled. The Minister talked about the letter that people are sent, but it sets out specifically that it is not proof of status, and the Minister acknowledged that.

I shall finish by raising two questions that have not been answered. There was a trial in 2018. It said that we should not bring forward a system without biometric residence permits unless there was strong evidence to show that they were no longer needed. The Minister did not share that with us.

The Minister told us that the Home Office had a comprehensive plan to address the cultural failings that led to Windrush, which included the finding that the Home Office was often thoughtless about the consequences for people affected by its policies. If the department really wants to demonstrate that, it would act in a way that shows that it cares about the consequences for people. In view of the Minister's unwillingness to move on this issue, I wish to test the opinion of the House.

10.06 pm

Division conducted remotely on Amendment 18

Contents 298; Not-Contents 192.

Amendment 18 agreed.

Division No. 5

CONTENTS

Aberdare, L.	Allan of Hallam, L.
Addington, L.	Allen of Kensington, L.
Adebowale, L.	Alli, L.
Adonis, L.	Altmann, B.
Alderdice, L.	Alton of Liverpool, L.

Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashton of Upholland, B.
Bach, L.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Berkeley, L.
Bichard, L.
Blackstone, B.
Blower, B.
Blunkett, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Boyce, L.
Bradley, L.
Bradshaw, L.
Brennan, L.
Brinton, B.
Bristol, Bp.
Brooke of Alverthorpe, L.
Browne of Belmont, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Canterbury, Abp.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chidgey, L.
Clancarty, E.
Clark of Calton, B.
Clark of Kilwinning, B.
Clark of Windermere, L.
Clement-Jones, L.
Cohen of Pimlico, B.
Collins of Highbury, L.
Cormack, L.
Corston, B.
Cotter, L.
Coussins, B.
Cox, B.
Crawley, B.
Crisp, L.
Cromwell, L.
Davidson of Glen Clova, L.
Deech, B.
Desai, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Dubs, L.
Eatwell, L.
Elder, L.
Erroll, E.
Faulkner of Worcester, L.
Featherstone, B.
Filkin, L.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Gale, B.
Garden of Frognal, B.
German, L.
Gloucester, Bp.
Goddard of Stockport, L.
Golding, B.
Goudie, B.
Grantchester, L.
Greaves, L.
Greenway, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hannay of Chiswick, L.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Haskel, L.
Haughey, L.
Haworth, L.
Hay of Ballyore, L.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hilton of Eggardon, B.
Hollick, L.
Hollins, B.
Howarth of Newport, L.
Hoyle, L.
Hughes of Stretford, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hylton, L.
Inglewood, L.
Janke, B.
Janvrin, L.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kerr of Kinlochard, L.
Kerslake, L.
Kilclooney, L.
Kingsmill, B.
Knight of Weymouth, L.
Kramer, B.
Lane-Fox of Soho, B.
Lawrence of Clarendon, B.
Layard, L.
Lea of Crondall, L.
Leeds, Bp.
Lennie, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Low of Dalston, L.
Ludford, B.
Macdonald of River Glaven, L.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
Mallalieu, B.
Mandelson, L.
Mann, L.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Maxton, L.
McAvoy, L.
McConnell of Glenscorrodale, L.
McCrea of Magherafelt and Cookstown, L.
McDonagh, B.
McIntosh of Hudnall, B.
McIntosh of Pickering, B.
McKenzie of Luton, L.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Mendelsohn, L.
Miller of Chilthorne Domer, B.
Morgan of Drefelin, B.
Morgan of Huyton, B.
Morris of Yardley, B.
Morrow, L.
Murphy of Torfaen, L.
Murphy, B.
Naseby, L.
Neuberger, B.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
O'Loan, B.
O'Neill of Bengarve, B.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parekh, L.
Parminter, B.
Patel of Bradford, L.
Patel, L.
Pendry, L.
Pinnock, B.
Pitkeathley, B.
Polak, L.
Ponsonby of Shulbrede, L.
Prashar, B.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randall of Uxbridge, L.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rees of Ludlow, L.
Rennard, L.
Richards of Herstmonceux, L.
Ricketts, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Rochester, Bp.
Rooker, L.
Rosser, L.
Rowe-Beddoe, L.
Rowlands, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Sandwich, E.
Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Shackleton of Belgravia, B.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Gilmorehill, B.
Smith of Kelvin, L.
Smith of Newnham, B.
Snape, L.
Soley, L.
Somerset, D.
Southwark, Bp.
St Albans, Bp.
St John of Bletso, L.
Stair, E.
Stephen, L.
Stern, B.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taverne, L.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurso, V.
Tonge, B.
Tope, L.
Touhig, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Tyler, L.
Uddin, B.
Vaux of Harrowden, L.
Walker of Aldringham, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warwick of Undercliffe, B.
Wasserman, L.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Waverley, V.
Wheatcroft, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wilson of Dinton, L.
Winston, L.
Wrigglesworth, L.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor of Hever, L.
Balfe, L.
Barran, B.
Barwell, L.
Bates, L.

Berridge, B.
Bethell, L.
Black of Brentwood, L.
Blackwell, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Brabazon of Tara, L.
Brady, B.
Bridges of Headley, L.
Brougham and Vaux, L.
Brown of Eaton-under-Heywood, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Carey of Clifton, L.
Carlile of Berriew, L.
Carrington of Fulham, L.
Cavendish of Furness, L.
Chalker of Wallasey, B.
Chartres, L.
Chisholm of Owlpen, B.
Choudrey, L.
Coe, L.
Colgrain, L.
Colwyn, L.
Courtown, E.
Couttie, B.
Craigavon, V.
Crathorne, L.
Cumberlege, B.
Davies of Gower, L.
De Mauley, L.
Deighton, L.
Dobbs, L.
Duncan of Springbank, L.
Dunlop, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairhead, B.
Fall, B.
Fellowes of West Stafford, L.
Fink, L.
Finn, B.
Fookes, B.
Forsyth of Drumlean, L.
Fraser of Corriegarth, L.
Freud, L.
Fullbrook, B.
Gadhia, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Garnier, L.
Glenarthur, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Goschen, V.
Grade of Yarmouth, L.
Green of Hurstpierpoint, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Haselhurst, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hogg, B.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jenkin of Kennington, B.
Jopling, L.
Kakkar, L.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lindsay, E.
Lingfield, L.
Lothian, M.
Lucas, L.
Mackay of Clashfern, L.
Maginnis of Drumglass, L.
Mair, L.
Mancroft, L.
Manzoor, B.
Marland, L.
Marlesford, L.
McColl of Dulwich, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McLoughlin, L.
Meyer, B.
Mobarik, B.
Mone, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Moylan, L.
Moynihan, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay, L.
Penn, B.
Pickles, L.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Rana, L.
Ranger, L.
Ravensdale, L.
Rawlings, B.
Reay, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ridley, V.
Risby, L.
Rock, B.
Rose of Monewden, L.
Sanderson of Welton, B.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stirrup, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Stuart of Edgbaston, B.
Sugg, B.
Taylor of Holbeach, L.
Thurlow, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Ullswater, V.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Vinson, L.
Wakeham, L.
Watts, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Willetts, L.
Williams of Trafford, B.
Wolfson of Aspley Guise, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

10.19 pm

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, we now come to the group consisting of Amendment 19. I remind noble Lords that Members other than the mover and the Minister may speak only once and that short questions of elucidation are discouraged. Anyone wishing to press this amendment to a Division should make that clear in debate.

Amendment 19

Moved by ***Baroness Prashar***

19: After Clause 4, insert the following new Clause—

"Entry of EEA and Swiss minors using national identity cards

(1) After 31 December 2020 the Secretary of State must allow minors who are nationals of any EEA State or Switzerland lacking settled or pre-settled status under the EU Settlement Scheme to enter the United Kingdom for a period not exceeding 30 days if they produce a valid national identity card issued by the relevant authority in their home country.

(2) No minors entering the United Kingdom under subsection (1) may do so on more than one occasion in any calendar year.

(3) After 31 December 2025 entry under subsection (1) may only be allowed on production by the minor of a valid national identity card which complies with the specifications and minimum security standards for machine readable travel documents as set out in Document 9303 of the International Civil Aviation Organization.

(4) Nothing in this section prevents minors from entering the United Kingdom under another provision or scheme which is not subject to the restrictions set out in this section.

(5) In this section—

"minors" means persons who are under the age of 18 on the date of their arrival in the United Kingdom;

"relevant authority" means the body within each EEA State or Switzerland designated as responsible for issuing valid national identity cards to the citizens of that country."

Member's explanatory statement

This new Clause provides for persons under the age of 18 who are EEA citizens or Swiss nationals (specifically those who lack settled or pre-settled status under the EU Settlement Scheme) to enter the UK for a stay not exceeding 30 days in any calendar year.

Baroness Prashar (CB) [V]: My Lords, this proposed new clause as resubmitted enjoys cross-party support. I am grateful to the noble Baronesses, Lady Fookes, Lady Garden and Lady Morris of Yardley, for putting their names to the amendment and thank the staff in

[Baroness Prashar]
the Public Bill Office for their help. I am grateful to all those who have expressed their support for this amendment, which has been overwhelming.

If the proposed new clause is accepted, minors from the EU, EEA and Switzerland will continue to be allowed to travel on ID cards after 31 December 2020. Junior students on English language and other seasonal programmes will continue to be allowed to travel here, as well as those on school exchange visits. If passed, the amendment would be transformational.

Almost one-third, or 150,000, of the annual number of English language students who come to the UK are juniors on short-stay courses. Research shows that more than 90% of them travel using ID cards, and only 10% travel on passports. The Government want these potential 135,000 European students to be treated like those from elsewhere in the world.

European juniors are unlikely to invest in passports given that they can in 2021 still travel to other English-speaking countries without one; namely, Ireland, Malta or Cyprus. I am still unclear whether the Government believe that our European neighbours would reciprocate by offering school exchanges and the like. Indeed, the weather may well prove to be better in at least two of those destinations, while our Irish friends, who like citizens in Denmark, Iceland and Norway may not have identity cards, still allow others to enter their country on them.

Yes, the amendment would treat European juniors more generously than certain others. However, we are talking about children, who surely present no realistic risk to border security and whose capacity to visit the UK will be seriously impacted by having to travel on passports. Those coming are overwhelmingly Europeans. The top two markets are Spain and Italy, with 95% and 83% of students respectively currently arriving on ID cards rather than passports. It is estimated that the sector is likely to suffer an 80% drop in students in 2020. We should act now to preserve this market, particularly when Covid-19 has had a devastating impact on the English language teaching sector. If not supported, the sector will not survive this double blow. A respondent to a recent survey said:

"If students cannot travel using their ID cards, our groups have told us that they will not come to the UK. They will go to Ireland or Malta. This school will not be … viable without those groups and after 53 years will be forced to close."

Due to Covid, almost 84% of staff in this sector have been either released or furloughed since March and the sector has suffered a direct loss of at least £510 million for 2020. The British language school sector brings in more than £1.4 billion annually and supports 35,000 jobs. It is larger than the fisheries industry. We should do everything to protect it by encouraging students to return in 2021 and not put additional barriers in their way.

One special category of EU/EEA citizen—those with EU settlement status—is already allowed to travel in the UK with ID cards from the start of 2021. This amendment merely extends their right to a very specific set of juniors, not holding the special status and on a much more strictly limited basis. The idea that this will lead to a free-for-all and create border security issues in the process feels somewhat far-fetched. We are talking not about students of potentially postgraduate age, but about children as young as eight. If only one or two children in an English school language exchange group cannot travel here because they do not possess a passport, the trip for the rest may not happen.

The revised amendment takes account of what the Minister said in Committee was inappropriate drafting by acknowledging that those enjoying settled or pre-settled status under the EU settlement scheme will still be able to travel on ID cards after 31 December 2020, although this clearly benefits only a small proportion of minors, many of whom may already be fluent in English, one suspects, having been resident here for some time. The Minister also said in Committee that the Government

"fully recognise the concerns of English language schools",—[*Official Report*, 7/9/20; col. 577.]

which, I should add, extend well beyond the current impact of coronavirus. If that is the case, the Government should support the adoption of this proposed new clause in the Bill. I sincerely hope that the Minister will give a positive response. I beg to move.

Baroness Garden of Frognal (LD): My Lords, this identity card-related amendment is a risk-free, concrete and straightforward solution to one of the problems thrown up by the end of free movement.

Junior groups travel all around the country, but many travel to seaside and rural locations where they have a positive and very welcome effect on the local economy, helping shore up jobs in language schools, accommodation, leisure and hospitality, from homestay providers to coach companies, visitor attractions and local retail. All these businesses have been disproportionately affected by the Covid pandemic. As the noble Baroness, Lady Prashar, set out so persuasively, removing the right to ID card travel would have a profoundly negative effect on this business at a time when we need to support its recovery wholesale.

Moreover, many European juniors come to the UK in successive years to take part in English language programmes, and these in turn serve as a feeder for our £20 billion higher education industry. We do not want these students to go to competitor nations and never acquire the positive impression of life and study in the UK that would lead them to choose a British university. Allowing ID card travel to continue after the end of 2020 will ensure that no one is deterred from coming to the UK in the first place.

A swift resolution to this issue is vital, as many language schools, exchanges and other groups of EU juniors are starting to book their visits for 2021. Many will not have travelled this year for obvious reasons and will need to feel confident that post-Brexit Britain remains as welcoming a destination as it has traditionally been, particularly in respect of children. The continuing uncertainty around ID card travel will undercut the messages of recovery and business as usual that the UK will want to promote in 2021. A swift resolution on the ID card issue will go far to create good will and confidence with our European partners and allow the soft-power benefits of exchange visits to continue into the distant future. I urge the Minister to accept this amendment.

Baroness Neville-Rolfe (Con): My Lords, I will be brief as it is late. I agree with the noble Baronesses, Lady Prashar and Lady Garden of Frognal, and my noble friend Lady Fookes, who also put her name to the amendment, that we need to facilitate visits to the UK by schoolchildren to attend, for example, a holiday language course. This could be the foundation of a love of Britain reflected in trade, investment, tourism and cross-cultural links. I think my noble friend the Minister said in Committee that this is not a big issue because ID cards will continue to be usable, in some cases, until 2025 under the withdrawal agreement. Could my noble friend Lord Parkinson confirm that when he replies?

10.30 pm

She also said having a passport is much better, although there is a cost, because visitors can use e-gates and the documents are less subject to fraud—and we all know that there is an issue with ID card fraud. The Minister also cited a Council of Europe arrangement for a collective passport for organised groups, and I wonder whether this could not be promoted more widely and could help find a solution to the problem that has been raised by the noble Baronesses. I look forward to my noble friend's comments.

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, the three previous speakers, particularly the noble Baroness, Lady Prashar, set out the situation extremely well and comprehensively, but I would like to add a few words.

This is a narrow, specific amendment targeted at young people who probably do not yet have their own passport. It seems that if we allow them to continue using their ID card, they will be less disinclined to come to Britain, and we all know that when young people come to another country, their views are formed, probably permanently, about that country, and if they have a good time, they will always come back and spend money and help our economy.

It is also a fact that these children do not pose a threat to national security; it is not as if they are going to be dangerous once they are here. These are people we very much want to come, and it seems illogical not to allow them to travel on ID cards. I want to ask the Minister a few questions about this. Group passports could actually be less secure and might be more difficult to obtain and, therefore, another deterrent to people coming here. Other noble Baronesses pointed out that this is an economic issue; they spend quite a lot of money and support a lot of the local economy.

What thoughts has the Minister had about planning for facilitating young people to come to visit from the EU? There has to be an incentive; if it becomes more difficult, we have to put something in its place, another incentive. Secondly, what will be the regime for young people going from the UK to the EU? How will that differ from the present arrangements? And, thirdly, this seems utterly unfair, when so many of your Lordships have benefited from travelling abroad so freely, as I have. It truly does broaden the mind, and it is a pity to not offer young people the same opportunities we had when we were young.

Lord Hunt of Kings Heath (Lab): My Lords, I hope the Government do not want to put these visits, exchanges and language schools in jeopardy, which clearly is the fate that will befall them unless the Government are prepared to give this further consideration. I hope the Minister will agree to take this back to give it one further look.

On the question of security—I know he commented on this in Committee—he should note that this amendment allows juniors to travel for single short-stay visits of less than 30 days. We know many of these juniors will receive new ID cards in the coming years, with added security features such as biometric information. The aspiration of the EU countries is for all new ID cards of this kind to be made available by 2021. Most of these young people will be travelling in groups co-ordinated by one or more passport-carrying teachers or group leaders and will remain part of this group for the duration of their time here.

On the other point raised in Committee, which was the Minister's suggestion that collective passports be used, I understand, from those who travel from the UK using collective passports, that this can be a very bureaucratic and cumbersome procedure. Collective passports have not been used in many EU countries in recent years, so this is not a practical solution.

At the end of the day, this is a very valuable business in the UK, with so many language schools, and we have huge benefits from young people going from the UK to EU countries and vice versa. Surely the Home Office would want to do what it could to help this. I hope the Minister will just agree to give this some further consideration.

Lord Kerr of Kinlochard (CB) [V]: I too will be very brief, given the hour. This is a very modest amendment, admirably introduced by the noble Baroness, Lady Prashar. What she proposes is cost free and risk free. Children coming in in school parties and on exchange visits for no more than 30 days and no more than once a year are not a substantial threat to the sceptred isle. The amendment will also do a lot of good. Free movement, Schengen and identity cards mean that large numbers of continental children do not have passports. If schools considering bringing them here face the prospect of insisting that they first get passports or go to the considerable trouble of getting a group passport, a significant proportion of schools will prefer to take the class somewhere else. The amendment would prevent that happening.

More generally, losing free movement inevitably means a diminution of personal contacts. We and our continental friends will be further apart. That is a great pity. Any cost-free, risk-free measure to limit this continental drift should be welcomed, so I welcome the amendment.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, the noble Lords, Lord Naseby and Lord Blunkett, have withdrawn, so I call the noble Lord, Lord Paddick.

Lord Paddick (LD): My Lords, we support this amendment. As other noble Lords said, this will have a damaging impact on the English-language teaching

[LORD PADDICK]
sector and associated businesses such as coach operators and accommodation providers, as my noble friend Lady Garden of Frognal said. That is because these students will be going to Ireland, Malta and Cyprus—other English-speaking countries—rather than coming here, because they can still use their ID cards in those other countries.

As the noble Baroness, Lady Prashar, said, 90% of those on short language trips to the UK travel on ID cards, and it will disadvantage young people from poorer backgrounds who cannot afford a passport. Much English language teaching is based in coastal and rural communities, so the Government's levelling-up agenda will be damaged, as will exchange trips, disadvantaging UK students, because the foreign students will not be able to come here, therefore the UK students will not be able to go on exchange visits to European countries. For those reasons, we support the amendment.

Lord Rosser (Lab): Amendment 19 provides that from the beginning of next year, the Secretary of State must permit children from EEA states and Switzerland to continue to use their national ID card to enter the UK, rather than needing a passport. They would be permitted to do this once a year, for a short-term stay of up to 30 days. The amendment appears, from what has been said, to be intended to address important issues about accessing and retaining educational opportunities and exchanges for what should be both UK and EU young people, and ensuring that those existing opportunities are not compromised, made more difficult or significantly more costly to access at the end of the transition period.

What conversations has the Home Secretary already had with the Education Secretary on the concerns that have been expressed in this debate about the impact on educational opportunities for children, following the end of the transition period, as a result of changes in the immigration arrangements? What changes will need to be made for school travel in both directions to ensure that arrangements no less comparable in terms of cost, speed of process and efficiency continue after the end of this year as regards schools, the children involved and our border personnel?

It has been made clear in this debate that the English language learning sector has concerns about the impact on English language education of changes to the immigration rules. What dialogue have the Government had with this sector on these concerns, which it clearly regards as striking at the very heart of its existence?

The amendment is not specifically linked to travel for educational purposes, but would give a blanket right for all minors from EEA states and Switzerland to enter the UK using an ID card once a year. It is thus considerably wider in its terms than its stated purpose and we would not be able to give it our support if it were taken to a vote; it is not clear whether the mover intends to do that. However, I hope that the Government can give assurances that, if it has not already been done, work is being undertaken to ensure that UK and EU children, and indeed older learners such as those who may access university or further education courses, will at the very least continue to have access, on terms that are no less favourable overall, to the educational opportunities they currently have, after the end of the transition period.

Lord Parkinson of Whitley Bay (Con): My Lords, I thank the noble Baroness, Lady Prashar, for her amendment and all noble Lords for their contributions to this debate—particularly for their brevity and focus at this hour. This amendment is similar to the one which the noble Baroness tabled in Committee. It seeks to allow EEA minors to continue to travel to and enter the UK using their national identity card, in the context of the Government's intention to phase out the use of national identity cards for travel to the UK in 2021.

The changes made since the previous iteration of the amendment acknowledge our commitments in the withdrawal agreements to allow particular categories of EEA citizens to use their identity cards without restriction until at least 2025, and thereafter if those cards include a chip that complies with the applicable International Civil Aviation Organization standards related to biometric identification. The wording of the amendment differs slightly from the withdrawal agreement on the latter. In response to my noble friend Lady Neville-Rolfe, EEA citizens who have applied under the EU settlement scheme will be able to use their national ID cards to enter the UK until at least 31 December 2025. The amendment would hinder changes that may be made after the end of the transition period to a unified position on the acceptance of identity cards to visitors to the UK who do not fall within scope of the withdrawal agreements.

I am sympathetic to noble Lords' efforts by way of this amendment to ensure that cultural and educational exchanges between the UK and other nations endure. Those important and enriching experiences will still happen. In response to the noble Baroness, Lady Jones of Moulsecoomb, various short-term study activities will be permitted under the standard visitor rules, for which entry clearance will not be required in advance—this covers study at accredited institutions for up to six months. However, EEA nationals will require a passport, just like everybody else. In Committee, the noble Baroness, Lady Morris of Yardley, referred to her experience as an exchange student in America as an example of such good will between countries; such opportunities are not hindered by the requirement to have a passport.

The noble Baroness, Lady Jones, and the noble Lord, Lord Hunt of Kings Heath, mentioned collective passports, issued under a 1961 Council of Europe treaty, which can be used by an organised group of between five and 50 young people to make a trip to certain European countries. Nineteen European countries have ratified that treaty—we would certainly like to see more do so—and the UK uses them.

The points made in Committee about the use of passports and the practical complexities of this amendment still stand. Given the hour, I do not intend to repeat them here, except to reiterate that the noble Baroness's amendment would, as she acknowledged, oblige us to treat a particular group of EEA citizens whose rights are not enshrined in the withdrawal agreements more generously than other EEA citizens—

and more generously than students from non-EEA countries. It would give EEA students a right of entry at a time when we are ending free movement from the EU and aligning the immigration of EEA and non-EEA citizens. It would simply therefore not be appropriate for EEA students to be treated in that preferential way. I hope, therefore, that the noble Baroness will feel able to withdraw her amendment.

Baroness Prashar (CB) [V]: My Lords, I thank all the noble Lords who have spoken in this debate, and I also thank the Minister for his response, which I find rather disappointing. The points were made quite positively by the noble Lord, Lord Hunt, about collective passports and the advantages of such an exchange. As the noble Lord, Lord Kerr, said, this is a very modest amendment, which would benefit long-term cultural relations and save the English language teaching sector. I hope that the Minister will give further consideration to this, because I was hoping not to actually divide the House. However, given the response that I have had, I would like to test the opinion of the House.

10.46 pm

Division conducted remotely on Amendment 19

Contents 152; Not-Contents 166.

Amendment 19 disagreed.

Division No. 6

CONTENTS

Aberdare, L.
Addington, L.
Adebowale, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Ashton of Upholland, B.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Birt, L.
Blackstone, B.
Bowles of Berkhamsted, B.
Boyce, L.
Broers, L.
Brooke of Alverthorpe, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Bruce of Bennachie, L.
Bull, B.
Burnett, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Carlile of Berriew, L.
Clancarty, E.
Clark of Calton, B.
Clement-Jones, L.
Cooper of Windrush, L.
Corston, B.
Cotter, L.
Coussins, B.
Cox, B.
Crisp, L.
Deech, B.
Dholakia, L.
Eatwell, L.
Elder, L.
Erroll, E.
Featherstone, B.
Finlay of Llandaff, B.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Garden of Frognal, B.
German, L.
Goddard of Stockport, L.
Golding, B.
Goudie, B.
Greaves, L.
Grender, B.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Hamwee, B.
Hannay of Chiswick, L.
Harris of Richmond, B.
Hastings of Scarisbrick, L.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hylton, L.
Inglewood, L.
Janke, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Judd, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Kilclooney, L.
Kramer, B.
Lee of Trafford, L.
Liddle, L.
Ludford, B.
Macdonald of River Glaven, L.
Mackenzie of Framwellgate, L.
Macpherson of Earl's Court, L.
Mann, L.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
McCrea of Magherafelt and Cookstown, L.
McNally, L.
Miller of Chilthorne Domer, B.
Morris of Yardley, B.
Morrow, L.
Neuberger, B.
Newby, L.
Northover, B.
Oates, L.
O'Loan, B.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parminter, B.
Pinnock, B.
Prashar, B.
Purvis of Tweed, L.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Redesdale, L.
Rees of Ludlow, L.
Rennard, L.
Ricketts, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Rooker, L.
Rowe-Beddoe, L.
Russell of Liverpool, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Shipley, L.
Shutt of Greetland, L.
Smith of Finsbury, L.
Smith of Kelvin, L.
Smith of Newnham, B.
Soley, L.
Somerset, D.
Southwark, Bp.
St John of Bletso, L.
Stair, E.
Stephen, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taylor of Goss Moor, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thurlow, L.
Thurso, V.
Tonge, B.
Tope, L.
Trevethin and Oaksey, L.
Tyler of Enfield, B.
Tyler, L.
Uddin, B.
Walker of Aldringham, L.
Wallace of Saltaire, L.
Walmsley, B.
Wheatcroft, B.
Wilson of Dinton, L.
Wrigglesworth, L.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Balfe, L.
Barran, B.
Barwell, L.
Bates, L.
Berridge, B.
Bethell, L.
Black of Brentwood, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Bourne of Aberystwyth, L.
Brady, B.
Bridges of Headley, L.
Brookeborough, V.
Browning, B.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cavendish of Furness, L.
Chalker of Wallasey, B.
Chartres, L.
Chisholm of Owlpen, B.
Choudrey, L.
Colgrain, L.
Colwyn, L.
Courtown, E.
Couttie, B.
Craigavon, V.
Crathorne, L.
Cumberlege, B.
Curry of Kirkharle, L.
Davies of Gower, L.
De Mauley, L.
Dunlop, L.
Eaton, B.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fairhead, B.
Fall, B.
Farmer, L.
Fellowes of West Stafford, L.
Fink, L.
Finn, B.
Fookes, B.
Forsyth of Drumlean, L.
Fullbrook, B.
Gadhia, L.
Gardiner of Kimble, L.
Garnier, L.
Gold, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Greenhalgh, L.

Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Haselhurst, L.
Hay of Ballyore, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hodgson of Astley Abbotts, L.
Horam, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jopling, L.
Kakkar, L.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Lothian, M.
Lucas, L.
Mackay of Clashfern, L.
Maginnis of Drumglass, L.
Mancroft, L.
Manzoor, B.
McColl of Dulwich, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
Meyer, B.
Mobarik, B.
Mone, B.
Morgan of Cotes, B.
Morris of Bolton, B.
Moylan, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Neill of Bengarve, B.
Parkinson of Whitley Bay , L.
Patel, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Popat, L.
Rana, L.
Randall of Uxbridge, L.
Ranger, L.
Ravensdale, L.
Rawlings, B.
Reay, L.
Redfern, B.
Ribeiro, L.
Risby, L.
Robathan, L.
Rock, B.
Rose of Monewden, L.
Sanderson of Welton, B.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Stedman-Scott, B.
Sterling of Plaistow, L.
Strathclyde, L.
Stuart of Edgbaston, B.
Sugg, B.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Trefgarne, L.
True, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Vinson, L.
Wakeham, L.
Wasserman, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Willetts, L.
Williams of Trafford, B.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

11 pm

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, we now come to the group beginning with Amendment 20. I remind noble Lords that Members other than the mover and the Minister may speak only once, and that short questions of elucidation are discouraged. Anyone wishing to press this, or anything else in the group, to a Division should make that clear in the debate.

Amendment 20

Moved by ***Baroness Hamwee***

20: After Clause 4, insert the following new Clause—

"Time limit on immigration detention for EEA and Swiss nationals

(1) For the purpose of this section, a person ("P") is defined as any person who, immediately before the commencement of Schedule 1, was—

(a) residing in the United Kingdom in accordance with the Immigration (European Economic Area) Regulations 2016 (SI 2016/1052);

(b) residing in the United Kingdom in accordance with a right conferred by or under any of the other instruments which is repealed by Schedule 1; or

(c) otherwise residing in the United Kingdom in accordance with any right derived from European Union law which continues, by virtue of section 4 of the European Union (Withdrawal) Act 2018 (saving for rights etc. under section 2(1) of the ECA), to be recognised and available in domestic law after exit day.

(2) The Secretary of State may not detain P under a relevant detention power for a period of more than 28 days from the relevant time.

(3) If P remains detained under a relevant detention power at the expiry of the period of 28 days then—

(a) the Secretary of State must release P forthwith; and

(b) the Secretary of State may not re-detain P under a relevant detention power thereafter, unless the Secretary of State is satisfied that there has been a material change of circumstances since P's release and that the criteria in section (Initial detention: criteria and duration) are met.

(4) In this Act, "relevant detention power" means a power to detain under—

(a) paragraph 16(2) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal);

(b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation);

(c) section 62 of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal); or

(d) section 36(1) of the UK Borders Act 2007 (detention pending deportation).

(5) In this Act, "relevant time" means the time at which P is first detained under a relevant detention power.

(6) This section does not apply to a person in respect of whom the Secretary of State has certified that the decision to detain is or was taken in the interests of national security."

Member's explanatory statement

This new Clause places a limit on the length of time EEA or Swiss nationals may be held in immigration detention of 28 days.

Baroness Hamwee (LD): My Lords, Amendment 20 is in a package with Amendments 21, 22 and 31. I will be seeking to test the opinion of the House on Amendment 20, and I understand the Government accept that the other amendments would be treated as consequential. I have had to edit these remarks very heavily because of the time, and I apologise to all those who have made such good points to me that I will not be able to include them in what I suspect will be a somewhat disjointed speech.

The use of detention for immigration purposes, in part because of the Windrush scandal, is attracting increasing concern across civil society. These amendments address one particular aspect: that it is indefinite. The amendment would impose a time limit of 28 days; there could not be re-detention—cat and mouse—without a material change in circumstances; and there is an exclusion where detention is in the interests of national security.

Amendment 21 sets out the criteria for detention, including that the detainee can shortly be removed from the UK. Noble Lords will be aware that places of detention, apart from when a prisoner remains locked

up after serving his sentence, are actually immigration removal centres. The detention must be proportionate and strictly necessary. Amendment 22 provides for bail hearings.

It is no answer to say that most detainees are released within 28 days. That does not make detention for a longer period defensible in the case of those who are held for longer, and for all detainees it is the uncertainty —not knowing when the end might come—that is the issue.

It may seem rather trivial, but we have all recently experienced being, and are currently, confined to our own homes. That is nothing in comparison: in our own homes, speaking the language of those around us and with means of communication. The noble Lord, Lord Dubs, in an earlier debate talked about having no hope—that no hope for the future feels like no future. That applies to detainees in this situation. The very great majority of detainees are not foreign national offenders. Dealing with them really is, or should be, something for the criminal justice system, including probation.

The impact of detention, and the prospect of re-detention, is an extraordinary burden. People are picked up from living in the community in what seems quite a random fashion, and people are taken straight from their regular and proper reporting into detention. It takes its toll on people who are, by definition, almost to some extent vulnerable; some are highly vulnerable and traumatised by their experiences.

The Minister in Committee said that a time limit would reward abuse. There must be many detainees who, not having sought to go underground and having conducted themselves as required—I have mentioned reporting—must feel that detention is a reward for compliance. They continue to show their compliance when they are released; they do not disappear.

The right to apply for bail, as currently, is not an adequate safeguard. Most detainees cannot advocate for themselves. The amendment provides for automatic hearings by the tribunal, which is experienced in immigration matters.

I was a member of the Joint Committee on Human Rights when it produced a report supporting the 28-day time limit. To answer another point made in Committee, the evidence that we had then was that the gatekeeping function, relatively recently introduced and intended to assess suitability for detention, was generally perfunctory and inadequate.

I must tell noble Lords that the majority of people detained—almost two-thirds according to the last figures—are ultimately released into the community. That prompts the question: if they are suitable to be released into the community eventually, why do they need to be detained for any longer than 28 days?

I know that noble Lords want to see a humane asylum system that they can defend and asylum claims dealt with in a reasonable time, and I do not accept the argument that delays are due to lawyers gaming the system. I hope that noble Lords, with that short explanation and with many of them no doubt having previously encountered descriptions and concerns about the issue, will wish to support these amendments. I beg to move.

The Lord Bishop of Southwark: My Lords, I wish to speak in favour of Amendment 20, which the right reverend Prelate the Bishop of Durham—he regrets that he is unable to be with your Lordships today—has put his name to, together with the noble Baroness, Lady Hamwee, who has just spoken, the noble Lord, Lord Kennedy of Southwark, and the noble Baroness, Lady Bull.

The process of detention is an intensely dispiriting one. It is often accompanied by a physical denial of hope and attendant mental distress. We have heard of extensive periods of internment, just as we have heard from the Minister of expeditious dealing with detainees. We have heard, too, from her that detention cannot be indefinite because the Secretary of State's power is constrained by common law. That is undeniably correct. However, for an individual who is affected by this and who might be unaware of how and when a caseworker will weigh the different elements of Hardial Singh, that is no comfort.

The Government are right in saying that detention is subject to the courts. However, although the application of common law brings many benefits—and there will be those in your Lordships' House who will think it little enough used—those who are subject to sudden detention are not the sort of people who can summon the resources to apply to a court for redress. That is a key failing of any attempt to justify the present arrangements. The problem with the immigration and asylum system is not, as some allege, overtly complex legal safeguards for unworthy individuals; it is less contentious and more straightforward than that—it is simply that too few individuals have the resources to access the legal help necessary to ensure them fair consideration. The number of cases which the Home Offices loses and which go to tribunal demonstrates the human cost of that. It is an indictment that this inhibits the operation of justice for all.

The Government have had ample opportunity to bring forward their own amendment to put the terms of detention on a statutory footing. In the absence of that, I trust that the House will take the opportunity to give this amendment a generous consideration. I shall vote for it.

Baroness Bull (CB): My Lords, it is a privilege to speak in support of these amendments, so ably introduced by the noble Baroness, Lady Hamwee, and so well supported, not only across all parts of this House and the other place, but by legal and medical experts, civil society organisations and religious leaders, and by the Home Affairs Select Committee and the Joint Committee on Human Rights.

These amendments respond to the moral imperative to treat people fairly according to principles of non-discrimination. Having a system that departs from the principles of the UK's criminal justice system, in which judicial oversight is required after days and individuals are released from detention after 96 hours without charge, is antithetical to the principle of the Universal Declaration of Human Rights that:

"All are equal before the law and are entitled without any discrimination to equal protection of the law."

Setting no time limit on immigration detention impacts on some of the weakest members of society, who already have fewer rights and have likely been

under extraordinary physical, mental and economic duress. It effectively pushes people into limbo, taking away their agency and capacity to ensure the well-being of themselves and the people they love.

The negative impact of immigration detention on mental health is well documented in research, with the duration of detention associated with severity of symptoms. A systematic review of the literature found that asylum seekers are likely to have a pre-existing vulnerability to mental health problems, which will be further exacerbated by detention.

As we have heard, the Minister said in Committee that setting a detention time would "encourage and reward abuse" of the immigration system. This proposition tears at the presumption of innocence, replacing it with suspicion and an assumption of guilt. It risks lawmaking being in the service of punishing the many for the crimes of the few. We are not talking here about offenders who should rightly be dealt with by the criminal justice system; we are talking about people who have suffered unimaginable hardships and have come to the UK to escape violence and persecution, in the hope of a better life. Detaining them with no prospect of when they might be released is not the behaviour of a democracy. We are better than this, and it is surely not how we want British citizens to be treated elsewhere.

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, it is a pleasure to follow the noble Baroness, Lady Bull, who spoke very eloquently. The noble Baroness, Lady Hamwee, was also very eloquent, in spite of her brevity. This Government are famous for their hostile environment. This is really the most inhumane immigration system, and Britain deserves better. We do not even have parliamentary oversight of this system, which is an appalling lack of democracy. I have signed three amendments in this group, all of which are valid and should be taken seriously by the Government and put into the Bill. Amendment 20 is particularly valuable, and my noble friend Lady Bennett and I will be voting for it.

Moving on from the concept of parliamentary oversight, we need a few things in the Bill. We need time limits on detention and a test of necessity and proportionality. People should be detained only when necessary. As we have clearly heard, detention is often unnecessary. We need a right to bail, with a process in place to facilitate it, and a ban on solitary confinement unless absolutely necessary—and I do mean absolutely necessary. These measures should be applied to all immigration detention, and I call on the Government to bring a Bill to reform the whole system. They have already said that they will do that, but I think the reform I have in mind is not what the Government have in mind. I just repeat that the system we have is inhumane; we need one we can feel proud of.

Lord Ramsbotham (CB) [V]: My Lords, I shall speak to Amendment 23, which I described in Committee, and in support of Amendment 20—so ably moved by the noble Baroness, Lady Hamwee—and Amendments 21, 22 and 31. When I was Chief Inspector of Prisons, with responsibility for inspecting what were then called immigration detention centres, because the Prison Service at that time was still part of the Home Office, I found that the majority of the management of the immigration system came from there. Most worrying was that there appeared no difference between immigration centre and prison rules, which my inspectorate corrected by rewriting them to better reflect UN and European immigration rules.

11.15 pm

We found that a common factor behind all disturbances at immigration centres was disaffected foreign national offenders, who should not have been in them anyway, being sent there only after completing their prison sentence to have their deportation processed. I recommended more than 20 years ago that, as I found happening in Abu Dhabi and Dubai, for example, they should have their deportation processed while in prison so that at the end of their sentence they were taken straight to an airport and out. My recommendation fell on deaf ears then and has still not been acted on, demonstrating yet again the confusion in Home Office minds over the difference between an immigration system, involving innocent people, and a criminal justice one.

With the greatest respect to the Minister, she was briefed to fall into the same trap in her response to these amendments in Committee. Very few detainees satisfy her claim that detention is used:

> "Only in the most complex cases, most frequently those involving foreign national offenders, where serious criminality is involved",

so as not to reward the abuse of the system. She also claimed that segregation, which, as many noble Lords pointed out, often results in damage to already fragile mental health, was

> "only … used as a last resort when other options have been tried … but failed".—[*Official Report*, 14/9/20; cols. 1019-20.]

Her claim that all detainees had access to mental healthcare equivalent to standards in the community has been shown to be, at best, specious in numerous inspection reports.

I must admit that the first I heard of a specialist Home Office team to trace and locate absconders, which I thought was a police responsibility, was in the Minister's letter of 28 September. Ever since I was chief inspector, I have been recommending a root-and-branch review of the whole immigration system; I still do. I intend to test the opinion of the House. Until then, I beg that this amendment be accepted.

Baroness Lister of Burtersett (Lab): My Lords, I support Amendment 23, to which I have added my name, and the others in the group. Since Committee, the Public Accounts Committee's report has come out —we have heard about it—and it was highly critical of the lack of evidence informing immigration enforcement policy. That has to raise a big question mark over the Minister's claim, in her letter to Peers, that:

> "Detention plays a key role in maintaining effective immigration controls and securing the UK's borders".

We have to ask: what is the evidence supporting that claim?

PAC also expressed disappointment that the Home Office is still not sufficiently curious about the impact of its actions, and that little evidence exists that the department actively seeks to identify or evaluate that impact.

This is highly pertinent to the impact of segregation and the indefinite detention of detainees, while not knowing how long that detention will last. We have already heard about the lack of hope that means. In both cases, as I documented in Committee and as the noble Baroness, Lady Bull, has done tonight, the impact on mental health is a particular concern. This lack of curiosity around impact might account for the parallel universe that I identified in Committee, in which the Minister's picture of detention and its effects is light years away from that documented by organisations on the ground.

Another example is the Minister's claim in Committee —to which the noble Lord, Lord Ramsbotham, has already referred—that

"Removal from association is only ever used as a last resort when other options have been tried … but failed, and only as an effective response to the safety and security risk presented by an individual in detention".—[*Official Report*, 14/9/20; col. 1020.]

However, as Medical Justice—which I thank for its support—points out, over 900 incidents of segregation in 2019 alone does not seem indicative of a "last resort". Medical Justice maintains that it is simply not true that segregation is used only in response to security and safety risks. It has experience of it being used as punishment or to manage detainees with mental health problems, of whom far too many are still being detained. In doing so, segregation is aggravating these mental health problems, which could also have been aggravated by the lack of a time limit, and it is diverting attention and energy from addressing underlying systemic problems that contribute to the behaviour that prompts segregation.

I will ask a couple of data-related questions. I thank the Minister for the management information she gave me on the use of association between January and March 2020. However, I also asked why the Home Office does not routinely publish these data once they can be treated as official. I would be grateful if she could look into this, perhaps, in the interests of transparency. I also thank her for the information on female detainees in her letter to Peers, but those data go up to only 30 June—they are the latest published quarterly statistics—which is three months ago. Is management information available on the current situation; namely, on how many women are currently detained in Dungavel House, Colnbrook, IRCs or prison?

In conclusion, I will argue that nothing in the Minister's response in Committee or her subsequent letter makes me rethink my support for the amendment, and I hope that others will join me in voting for it in the name of fairness, humanity and the compassion that is supposed to be the future hallmark of Home Office culture.

Baroness Meacher (CB): My Lords, I add my strong support to this group of amendments. The noble Baroness, Lady Hamwee, argued cogently—as she always does—in support of these changes to the Bill.

In her helpful letter, the Minister suggests that

"Detention is used sparingly and for the shortest period necessary."

Detention Action tells a very different story. One of the most important elements of these amendments is that they would end indefinite detention. As someone who worked in mental health services for many years, I am acutely conscious of the appalling consequences of detaining people without any indication of the length of time involved. Many detained indefinitely and for long periods—and, indeed, re-detained—have already suffered severe mental health problems due to their appalling experiences. Even with professional treatment, these problems may take many years to resolve. In my view, it is unforgivable for us, as a nation, to disregard this suffering.

As Detention Action has told us, in a recent case, the High Court found three separate periods of unlawful detention in respect of a vulnerable autistic person, in breach of Article 8 of the ECHR. This is a shocking example of what can happen under the current law. The importance of these amendments is that they would prevent that from happening in the future.

I want to put on record that our Minister was wrongly briefed when she suggested that detention of more than 28 days was limited to those who have committed serious offences. In reality, people with no offending history are regularly detained for periods exceeding 28 days—and even re-detained. These amendments would put an end to these unacceptable practices. The right to apply for bail is no solution for these vulnerable people; they do not all have access to professional legal representation, and many do not speak English. Of course, the most vulnerable—those with mental health problems—are the least able to advocate for themselves.

Another crucial element of the amendments is the commitment to ensuring that re-detention cannot happen unless there is a material change in the detained person's circumstances. The case of Oliver—quoted in Committee —underlines the cruelty of re-detention. Oliver, as noble Lords will remember, suffered with PTSD, having been imprisoned and tortured in his home country and trafficked twice, yet he was re-detained a year after his release from initial detention. How can we do this to such a vulnerable person?

Of course, not all immigrants have a history as bad as Oliver's but many detainees have experience of torture or ill treatment and have significant and chronic health problems. Noble Lords know that attempted suicides are commonplace in detention centres and actual suicides have been on the increase in recent years. Some 68% of detained immigrants are not removed from the UK. Surely their detention has been pointless and therefore unjustified. As Detention Action argues, the current system is ineffective, inefficient, harmful and costly. We spend £100 million a year on detention. As we emerge from Covid we can ill afford to be throwing money away. This amendment is a gift to the Chancellor. I was pleased to read that the Home Office is considering alternatives to detention. If the Government also want to avoid detention except when it is absolutely necessary, I hope that the Minister will be able to table amendments at Third Reading to achieve the objectives that I believe we all want to achieve.

The Deputy Speaker (Baroness Garden of Frognal) (LD): The noble Baroness, Lady McIntosh of Pickering, has withdrawn, so I now call the noble Lord, Lord Roberts of Llandudno.

Lord Roberts of Llandudno (LD) [V]: What a privilege it is to share these arguments with people some of whom have been here for many years. I must say how much I appreciate the work that my noble friend Lady Hamwee has done over the years in leading the Liberal Democrat camp.

What sort of world are we aiming for? When we look at what the present Home Secretary proposes, it is even more harsh. She does not propose any end to detention—it is indefinite. Instead she is leading a discussion—I hope it does not come to more than that—on transporting or deporting people to distant islands. The whole thing breaks the spirit of all those people who for some reason or another have found themselves in this detainee situation. The UK should be the leader in building a humanitarian approach to what will be an increasingly difficult situation as climate change and other things affect the areas of Africa that grow the grain and feed the people. The people will move. They will want a new home. Should the UK not join other nations in leading to try to find an honourable way, not one that is so heart-breaking to so many people? I ask the Government to take another look. Let it be a humanitarian look and let us go on to be rather proud not of what we have done in hostility but of what we have done in caring and hospitality.

Lord Kerr of Kinlochard (CB) [V]: I support Amendment 20 and will address the asylum angle. Ms Patel is quite right that the asylum system is broken, but the repairs that are required need not—must not—mean recourse to water cannons or wave machines, disused oil rigs or ferries, Ascension Island or Papua New Guinea, all of which would mean further breaches of international law, this time the refugee convention.

The problem is not the one that Ms Patel addressed yesterday. The realm is not at risk from the summer surge in small boat arrivals. Although as a proportion more are coming that way, overall numbers of asylum applications are sharply down—by 40% compared to one year ago. No doubt that is partly related to Covid-19, but it shows how absurd is talk of invasion. The real problem is how to make the system more efficient and more humane. Ms Patel does not need to think outside the box. The tools are in her hands now. Making it more efficient means putting more resources into tackling the backlog and reducing the queue and providing better guidance to those who have to take the decisions.

11.30 pm

The Home Office used to aim to process all straightforward asylum cases within six months. Today, the queue is over 100,000 people, 54,000 of whom are awaiting an initial decision, and 38,756 of the people waiting—72%—have been waiting for more than six months, an increase of 57% compared with this time last year. That too will no doubt be partly virus-related, but the remedy is in the hands of the Home Office.

As for better guidance for those who must decide on asylum applications, it is remarkable that over 40% of initial refusals are overturned on appeal. That rather suggests that instructions to the decision-takers need rapid and comprehensive review. There must be lessons to be learned from losing so many cases on appeal.

Cutting the queue through greater efficiency would be the main thing to do, and so would release from detention within 28 days, as proposed by the noble Baroness, Lady Hamwee, in her amendment. But let us not pretend that we treat asylum seekers humanely even when they are not in detention. They are not allowed to work, and anyone paying an asylum seeker commits a criminal offence, which in my view makes it inhumane to expect asylum seekers to live on £5.66 a day. When, because of the virus, universal credit payments went up by £20 per week, the Refugee Council and others pressed the Government to do the same for asylum seekers. The Government agreed to increase the payment. They increased it from £37.75 to £39.60 per week—an increase of 20p per day.

It cannot be very easy to live off £5.66 per day. In an unfamiliar country, where one may not know the language, the temptation to take a paying job in the black economy must be huge. It is not the asylum seeker's fault that the queue for a decision, in which he is stuck, is so long. It is the system that is unfair to them. It is as inhumane as it is inefficient, and because it is inefficient, it is inhumane. The amendment tabled by the noble Baroness, Lady Hamwee, and the other amendments in this group, all of which I support, would make it marginally less inhumane.

Baroness Ludford (LD): My Lords, I want to take up just two themes that wove through the debate in Committee. The first was about UK practice compared to that of other European countries. The Minister said in her response to the debate in Committee that

"no other European country has adopted anything close to a time limit as short as that which is proposed in these amendments. Acknowledging the complexity of securing arrangements for the return of people with no legal right to remain, the European Commission itself recently proposed that a new minimum detention period of three months be put in place."—[*Official Report*, 14/9/20; col. 1019.]

I fear that the Minister might have got tripped up by the Brussels phenomenon known as "minimum maximum", whereby the formulation "maximum of not less than" is part of a directive—or maybe a word got lost from the Minister's speech, because the Commission's proposal for the recast of the returns directive—a directive to which the UK of course has not opted in—actually reads:

"Each Member State shall set a maximum period of detention of not less than three months and not more than six months."

In other words, member states should set a maximum period of detention in their national laws. That maximum period can be between three months and six months. There is no requirement in existing or proposed EU law for individuals to be detained for a minimum of three months, which the Minister's words might have implied, no doubt inadvertently.

The second theme I will mention is the Government's contention that detention is a necessary part of efficient and effective immigration enforcement. The report on immigration enforcement from the National Audit Office in June, to which reference was made in Committee, said:

"Immigration Enforcement … cites an increase in individuals making late or spurious claims for asylum … It believes many of these claims are used to delay removal but noted in 2019 that it did not have a strategy across the work of Immigration Enforcement and the rest of the Department to mitigate the abuse or to tackle

the backlogs being caused by associated delaying tactics. We have not seen any systematic analysis designed to help the Department understand why claims are increasing, or to rule out if Immigration Enforcement's own actions might have contributed to the increase."

So my conclusion is that the Government have a lot of work to do across the whole field of immigration enforcement and removals. While they can rely on indefinite detention, they are not doing the work necessary to improve their systems to avoid unnecessary detention. To that end, a limit of 28 days would focus their mind on the other tools they need to have at their disposal and return detention centres to the genuine immigration removal centres that they should be.

Lord Kennedy of Southwark (Lab Co-op) [V]: My Lords, I intend to be brief, as this has been a long debate and the time is getting on. Amendment 20, moved by the noble Baroness, Lady Hamwee, along with her other amendments in this group, are ones that I support. My Benches will support the noble Baroness when she divides the House. The amendment would limit detention to a maximum of 28 days. As we have heard, people are often released into the community anyway. As the noble Baroness said, that begs the question of why they need to be detained in the first place.

Huge strain, stress and anguish are placed on those who find themselves detained with no clear idea of when that will end. As the right reverend Prelate the Bishop of Southwark said, the Government have had ample opportunity to bring forward an amendment of their own to deal with this issue. I will point out that there is not a single government amendment at this Report stage, and I do not think—I am sure I will be corrected if I am wrong—that there were any government amendments in Committee either. Sadly, that says to me that the Government have learned nothing, and that the hostile environment is alive and well. Despite the lateness of the night, I hope that the amendment is carried by a large majority.

Baroness Williams of Trafford (Con): My Lords, I too shall try to be as brief as possible. We must have an immigration system which encourages compliance and provides opportunity for people to leave voluntarily, but, where they refuse, we must have the ability to enact that removal. We do not detain indefinitely: there must always be a realistic prospect of removal within a reasonable timescale, and this is a complex process which requires a case-specific assessment to be made for every single person whose detention is considered.

The noble Baroness, Lady Ludford, argued that we were the only European country without a time limit on detention. It is of course more complex than that. I note that no European country has adopted anything close to a time limit as short as that which is proposed in these amendments, as she outlined. I did not get her maximum/minimum point—maybe because it is just too late in the evening—but the EU seems to be very opaque in that regard. Of course, jurisdictions comparable to ours such as Australia and Canada have not gone down this route.

We have a duty to those in the immigration system, but we also have a duty to protect public safety. The introduction of a detention time limit would severely limit our ability to remove those who refuse to leave voluntarily and would encourage and reward abuse, in some cases from individuals who present a genuine threat to the public. It would also allow those who wish to frustrate the removal process to run down the clock until the time limit is reached and release is guaranteed, regardless of the circumstances of that person's case, potentially placing the public at higher risk through the release of more foreign national offenders into the community.

Immigration detention is a limited but necessary aspect of the removal process. We agree that it should be used only where necessary, for the minimum number of people and the shortest possible time. The detention estate is now almost 40% smaller than it was five years ago, with 8,000 fewer people entering detention in the year ending December 2019 than in 2015.

Safeguards are central to our commitment to ensure that decisions to detain, and to maintain detention, are properly scrutinised. When a person is referred for detention, an independent detention gatekeeper assesses their suitability for it. Since 2016, this gatekeeper has rejected more than 2,300 referrals for detention.

Case progression panels provide important guidance on the appropriateness of anyone detained under immigration provisions at three-month intervals. We have responded to Stephen Shaw's recommendations in 2018 and piloted the participation of independent members in these panels, increasing their diversity of professional and cultural expertise, and demonstrably raising the quality of their insight. We are now moving to make this independent element a permanent feature.

Automatic referrals for bail occur at the four-month detention stage for non-foreign national offenders, providing additional external oversight of detention decision-making. It is worth noting that automatic bail referrals are an additional safeguard and do not affect the rights of all detainees to apply for bail at any time, regardless of the timeframe for automatic referrals. Due to the pandemic, bail hearings previously held in court are temporarily being dealt with by remote means, using videolink et cetera. Our response to these unique circumstances has ensured that there is no resulting backlog in bail applications.

The adults at risk in immigration detention policy has strengthened the presumption against detention for vulnerable people, ensuring that people are detained only when evidence of their vulnerability is outweighed by the immigration considerations. Everyone in detention has access to round-the-clock healthcare of the standard that can be expected in the community. Over the last few years, we have increased the ratio of staff to detained individuals in immigration removal centres to ensure that people can access support and advice should they need them. We constantly review and amend staff training materials on the care of vulnerable people.

Detention is already used sparingly and, as noble Lords have said, we continue to pursue alternatives wherever possible; 95% of people who are liable to removal from the UK are managed in the community while their cases are progressed. We are piloting a scheme for vulnerable women who would otherwise be detained at Yarl's Wood immigration removal centre to be housed and supported in the community prior to their removal.

I need to differ from the noble Baroness, Lady Meacher. In the current immigration system, it is only in the most complex cases—most frequently, though not always, foreign national offenders where serious criminality is involved—that detention exceeds 29 days. In the year ending December 2019, 74% of people were detained for less than 29 days; only 2% were detained for more than six months.

The noble Lords, Lord Kerr and Lord Roberts of Llandudno, talked about the number of cases that we lose on appeal; they are absolutely correct. Many people lodge claims right at the last minute and this makes it very difficult, but there are ways in which we are trying to limit that, for example by dip sampling cases after the two-month point to see if we can expedite them.

11.45 pm

Under the amendments, foreign national offenders and others will be automatically released after 28 days, regardless of the risk they pose to the public, even where they have deliberately frustrated the removal process by physical disruption or otherwise refused to comply with the Home Office's lawful instructions. A snapshot of those offenders from the EU who were detained at the end of December 2019 found that, if a 28-day limit were in place, we would have been required to release into the community 127 foreign national offenders who were being held under immigration powers to effect their deportation. Of these offenders, 25 had committed some very serious crimes, including rape, offences against children and other serious sexual or violent offences. I do not think any noble Lord would say that letting these offenders out on to our streets would seriously help our public safety efforts.

I move on to the proposed new clause on the arrangements for removing people from association and the use of temporary confinement within immigration removal centres. Again, I make it clear that this amendment is not relevant to the purpose of the Bill and the ending of free movement for EEA citizens. Removal from association is only ever used as a last resort when other options have been tried, but failed, and only as an effective response to the safety and security risk presented by an individual in detention.

The noble Baroness, Lady Lister, asked me for figures on detention. She will know that the figures change every day, so we would rather rely on published figures than management information. I am sure she understands that. The next quarterly release is at the end of this month, if that helps.

This amendment seeks to unnecessarily amend the criteria for considering removal from association and would require all those subject to these provisions to be returned to association with others after an absolute maximum of 24 hours, regardless of any continuing risk they pose to themselves or others. It is an unacceptable risk and one that we cannot accept. As I know that the noble Baroness will press her amendment, it is probably best if I sit down at this point so that she can.

Baroness Hamwee (LD): My Lords, I apologise to the noble Lord, Lord Ramsbotham. I share his concerns about segregation; my heavily edited speech was almost illegible by the time I made it, so I crossed out one of the wrong bits.

I thank noble Lords who have supported these amendments and packed so much into what they have said. The noble Lord, Lord Kerr, packed in a lot of criticisms of the whole system, and I agree with every word he said. I hope I anticipated a number of the Minister's arguments, because they were made in Committee—although I was probably pretty telegraphic in the way I did so.

The Minister said the amendment encourages compliance; the very fact that individuals are plucked out of the community, and do not disappear underground, shows that they comply. The amendment includes in its criteria that detention should be proportionate, which meets the point. It also meets the point about the need to protect public safety. Frankly, it is adding insult to injury—and it really is injury—to the majority of asylum seekers, who are not violent criminals. They are not criminals at all.

However, all this misses the point. It is about detention being indefinite. The Minister says that it is not indefinite; it always has an end and that is not the same as being indefinite. The individuals do not know when it must end. It is that uncertainty and loss of hope which are so inhumane and damaging. I beg to test the opinion of the House.

The Deputy Speaker (Baroness Garden of Frognal) (LD): I apologise, but the noble Lord, Lord Green of Deddington, wished to have a word after the Minister. I ask him to be brief.

Lord Green of Deddington (CB) [V]: I was dropped accidentally—I was due to speak after the noble Baroness, Lady Ludford. I shall be extremely brief.

We have now had a very full and effective response from the Minister. We should be in no doubt: these amendments sound humanitarian and are no doubt well-intentioned, but in practice they would be wrecking amendments. It is surely obvious that anyone subject to removal would only have to prevaricate for 28 days, perhaps with the help of a lawyer, and he or she would then be released and free to join the very large number of illegal immigrants already in this country.

Lord Parkinson of Whitley Bay (Con): My Lords, I am sorry to interrupt the noble Lord but there is capacity for him to ask a short question of elucidation at this point, and that is all. If the noble Lord has a question, he is welcome to ask it, but I am afraid that that is all that is possible after the Minister.

Lord Green of Deddington (CB) [V]: I will just say that I will vote against this amendment.

11.51 pm

Division conducted remotely on Amendment 20

Contents 184; Not-Contents 156.

Amendment 20 agreed.

Division No. 7

CONTENTS

Aberdare, L.	Alton of Liverpool, L.
Allan of Hallam, L.	Anderson of Swansea, L.
Alli, L.	Armstrong of Hill Top, B.

Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Berkeley, L.
Blackstone, B.
Boateng, L.
Bowles of Berkhamsted, B.
Bradley, L.
Bragg, L.
Broers, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Clancarty, E.
Clark of Kilwinning, B.
Clark of Windermere, L.
Clement-Jones, L.
Collins of Highbury, L.
Corston, B.
Cox, B.
Crawley, B.
Davidson of Glen Clova, L.
Deben, L.
Dholakia, L.
Doocey, B.
Drake, B.
Erroll, E.
Faulkner of Worcester, L.
Featherstone, B.
Finlay of Llandaff, B.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Freyberg, L.
Gale, B.
Garden of Frognal, B.
German, L.
Goddard of Stockport, L.
Golding, B.
Grantchester, L.
Greaves, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Haworth, L.
Hayman of Ullock, B.
Healy of Primrose Hill, B.
Hollick, L.
Howarth of Newport, L.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hylton, L.
Inglewood, L.
Janke, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kerr of Kinlochard, L.
Kramer, B.
Laming, L.
Lee of Trafford, L.
Liddle, L.
Lister of Burtersett, B.
Low of Dalston, L.
Ludford, B.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
Mair, L.
Mann, L.
Marks of Henley-on-Thames, L.
McAvoy, L.
McDonagh, B.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Mendelsohn, L.
Monks, L.
Morgan of Drefelin, B.
Murphy of Torfaen, L.
Neuberger, B.
Newby, L.
Northover, B.
Oates, L.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parminter, B.
Pinnock, B.
Ponsonby of Shulbrede, L.
Primarolo, B.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Redesdale, L.
Rees of Ludlow, L.
Reid of Cardowan, L.
Rennard, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Rochester, Bp.
Rooker, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Newnham, B.
Somerset, D.
Southwark, Bp.
Stair, E.
Stephen, L.
Stevenson of Balmacara, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Taylor of Bolton, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thurso, V.
Tonge, B.
Tope, L.
Touhig, L.
Triesman, L.
Tunnicliffe, L.
Tyler of Enfield, B.
Tyler, L.
Uddin, B.
Verjee, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Watts, L.
Wheatcroft, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Winston, L.
Wrigglesworth, L.
Young of Hornsey, B.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Baker of Dorking, L.
Balfe, L.
Bates, L.
Berridge, B.
Bethell, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Browne of Belmont, L.
Browning, B.
Brownlow of Shurlock Row, L.
Caine, L.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cavendish of Furness, L.
Chalker of Wallasey, B.
Chisholm of Owlpen, B.
Choudrey, L.
Colgrain, L.
Colwyn, L.
Courtown, E.
Couttie, B.
Craig of Radley, L.
Craigavon, V.
Cumberlege, B.
Davies of Gower, L.
De Mauley, L.
Duncan of Springbank, L.
Dunlop, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairhead, B.
Fellowes of West Stafford, L.
Fink, L.
Finkelstein, L.
Finn, B.
Fookes, B.
Forsyth of Drumlean, L.
Fullbrook, B.
Gadhia, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Gold, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Green of Deddington, L.
Greenhalgh, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Haselhurst, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hodgson of Astley Abbotts, L.
Hooper, B.
Horam, L.
Howe, E.
Hunt of Wirral, L.
Jopling, L.
Keen of Elie, L.
Kilclooney, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Lansley, L.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Lothian, M.
Lucas, L.
Lupton, L.
Mackay of Clashfern, L.
Maginnis of Drumglass, L.
Mancroft, L.
Manzoor, B.
Mawson, L.
McColl of Dulwich, L.
McCrea of Magherafelt and Cookstown, L.
McInnes of Kilwinning, L.
Meyer, B.
Mobarik, B.
Mone, B.
Morgan of Cotes, B.
Morrow, L.
Moylan, L.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Northbrook, L.
Norton of Louth, L.
O'Loan, B.
Parkinson of Whitley Bay , L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Popat, L.
Randall of Uxbridge, L.
Rawlings, B.
Reay, L.

Redfern, B.
Ribeiro, L.
Robathan, L.
Rock, B.
Rose of Monewden, L.
Sanderson of Welton, B.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Shackleton of Belgravia, B.
Sherbourne of Didsbury, L.
Shields, B.
Smith of Hindhead, L.
Stedman-Scott, B.
Stowell of Beeston, B.
Strathclyde, L.
Stuart of Edgbaston, B.
Sugg, B.
Taylor of Holbeach, L.
Thurlow, L.
Trefgarne, L.
Trenchard, V.
Trevethin and Oaksey, L.
True, L.
Ullswater, V.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Vinson, L.
Wakeham, L.
Wasserman, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Willetts, L.
Williams of Trafford, B.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

12.03 am

Amendments 21 and 22

Moved by ***Baroness Hamwee***

21: After Clause 4, insert the following new Clause—

"Initial detention: criteria and duration

(1) The Secretary of State may not detain any person ("P") to whom section (Time limit on immigration detention for EEA and Swiss nationals) applies under a relevant detention power, other than for the purposes of examination, unless the Secretary of State is satisfied that—

(a) P can be shortly removed from the United Kingdom;

(b) detention is strictly necessary to effect P's deportation or removal from the United Kingdom; and

(c) the detention of P is in all circumstances proportionate.

(2) The Secretary of State may not detain P under a relevant detention power for a period of more than 96 hours from the relevant time, unless—

(a) P has been refused bail at an initial bail hearing in accordance with subsection (5)(b) of section (Bail hearings); or

(b) the Secretary of State has arranged a reference to the Tribunal for consideration of whether to grant immigration bail to P in accordance with subsection (2)(c) of section (Bail hearings) and that hearing has not yet taken place.

(3) Nothing in subsection (2) authorises the Secretary of State to detain P under a relevant detention power if such detention would, apart from this section, be unlawful.

(4) In this section, "Tribunal" means the First-Tier Tribunal.

(5) In this section, "relevant detention power" has the meaning given in section (Time limit on immigration detention for EEA and Swiss nationals)."

Member's explanatory statement

This new Clause is linked to new Clause "Time limit on immigration detention for EEA and Swiss nationals" by specifying certain criteria that must be met during the initial detention and that the initial detention period should be no longer than 96 hours.

22: After Clause 4, insert the following new Clause—

"Bail hearings

(1) This section applies to any person ("P") to whom section (Time limit on immigration detention for EEA and Swiss nationals) applies and who is detained under a relevant detention power.

(2) Before the expiry of a period of 96 hours from the relevant time, the Secretary of State must—

(a) release P;

(b) grant immigration bail to P under paragraph 1 of Schedule 10 to the Immigration Act 2016; or

(c) arrange a reference to the Tribunal for consideration of whether to grant immigration bail to P.

(3) Subject to subsection (4), when the Secretary of State arranges a reference to the Tribunal under subsection (2)(c), the Tribunal must hold an oral hearing ("an initial bail hearing") which must commence within 24 hours of the time at which the reference is made.

(4) If the period of 24 hours in subsection (3) ends on a Saturday, Sunday or bank holiday, the Tribunal must hold an initial bail hearing on the next working day.

(5) At the initial bail hearing, the Tribunal must—

(a) grant immigration bail to P under paragraph 1 of Schedule 10 to the Immigration Act 2016; or

(b) refuse to grant immigration bail to P.

(6) Subject to subsection (7), the Tribunal must grant immigration bail to P at a bail hearing unless it is satisfied that the Secretary of State has established that the criteria in subsection (1) of section (Initial detention: criteria and duration) are met and that, in addition—

(a) directions have been given for P's removal from the United Kingdom and such removal is to take place within 14 days;

(b) a travel document is available for the purposes of P's removal or deportation; and

(c) there are no outstanding legal barriers to removal.

(7) Subsection (6) does not apply if the Tribunal is satisfied that the Secretary of State has established that the criteria in subsection (1) of section (Initial detention: criteria and duration) above are met and that there are very exceptional circumstances which justify maintaining detention.

(8) In subsection (6), "a bail hearing" includes—

(a) an initial bail hearing under subsection (2); and

(b) the hearing of an application for immigration bail under paragraph 1(3) of Schedule 10 to the Immigration Act 2016.

(9) In this section, "Tribunal" means the First-Tier Tribunal.

(10) The Secretary of State shall provide to P or P's legal representative, not more than 24 hours after the relevant time, copies of all documents in the Secretary of State's possession which are relevant to the decision to detain.

(11) At the initial bail hearing, the Tribunal shall not consider any documents relied upon by the Secretary of State which were not provided to P or P's legal representative in accordance with subsection (10), unless—

(a) P consents to the documents being considered; or

(b) in the opinion of the Tribunal there is a good reason why the documents were not provided to P or to P's legal representative in accordance with subsection (10).

(12) In the Immigration Act 2016, after paragraph 12(4) of Schedule 10 insert—

"(4A) Sub-paragraph (2) above does not apply to the refusal of bail within the meaning of section (Bail hearings) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020.""

Member's explanatory statement

This new Clause is linked to new Clauses "Time limit on immigration detention for EEA and Swiss nationals" and "Initial detention: criteria and duration" by providing for bail hearings during the initial detention period of 96 hours.

Amendments 21 and 22 agreed.

The Deputy Speaker (Baroness Garden of Frognal) (LD): We shall not be moving Amendment 23 tonight.

Consideration on Report adjourned.

House adjourned at 12.05 am.