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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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

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

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House of Lords

Wednesday 7 October 2020

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Rochester.

Arrangement of Business

Announcement

12.07 pm

The Lord Speaker (Lord Fowler): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, respecting social distancing, others are participating remotely, but all Members will be treated equally.

Oral Questions will now commence. Please can those asking supplementary questions keep them short and confined to two points; and I ask that Ministers' answers be also brief.

Social Care Workers

Question

12.07 pm

Asked by Lord Dubs

To ask Her Majesty's Government what estimate they have made of the shortage of social care workers for (1) residential care homes, and (2) domiciliary care.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, there is no doubt that we need more people to choose to work in social care. Prior to the pandemic, the vacancy rates for care workers in residential care and domiciliary care were 6.4% and 11.4% respectively. By June 2020, that had declined to an overall rate of 6.6%. We would like to see this number reduced further, which is why we are taking action to support recruitment nationally, and we expect local authorities to support care providers locally.

Lord Dubs (Lab) [V]: My Lords, yesterday the Prime Minister promised again to deal with the problem of social care. First, how will the Government fill these vacancies as a matter of urgency? Secondly, what priority will there be for social care in the Government's digital and healthcare strategy?

Lord Bethell (Con): My Lords, the immediate focus is on the national recruitment campaign across broadcast, digital and social media. We acknowledge that there needs to be more recruitment in social care. Encouragingly, the vacancy rate is down, from 7.8% to 6.6%, but we recognise that more needs to be done. We have launched the CARE brand to try to create a stronger employment brand around the care profession.

Lord Flight (Con) [V]: My Lords, I welcome the increase in the number of social care workers but there is more to be done not just in social care but across the wider NHS. Can my noble friend update the House on progress on wider NHS recruitment and, in particular, the manifesto commitment of 50,000 more nurses for the NHS? I hope, too, that there will be a reduction in the proportion of expensive agency-employed staff.

Lord Bethell (Con): My Lords, the recruitment of nurses is extremely encouraging. We have had an enormous response, with more than 10,000 nurses already recruited and recruitment rates to universities for nursing qualifications also up. We have an enormous marketing campaign supported by broadcast and social media. However, more needs to be done and we are very focused on this area. The use of agencies provides some surge capacity for hospitals—it has a role—but I completely acknowledge my noble friend's point that agency support needs to be used in a considered, thoughtful and commercially intelligent way.

Baroness Watkins of Tavistock (CB) [V]: My Lords, the introduction of living allowances for nursing students has improved recruitment this autumn. Stable funding for social care purchasers and providers in both care homes and domiciliary-based service is necessary to ensure dignity in care for the vulnerable in our society. It is essential that careers in social care are attractive and that staff are supported to deliver high-quality personalised care to clients. What plans do Her Majesty's Government have to support local authorities, further education colleges and social care providers to train and retrain social care staff? Central funding is necessary. Incentives are needed to demonstrate that those joining the social care workforce are as valued by government and society as those working in the NHS.

Lord Bethell (Con): The noble Baroness makes her point extremely well. We want social care to be a profession that people seek out, where they seek professional development and where they can find a fulfilling lifetime career. That will not be true for everyone, but we need a backbone of people who are committed to social care. That is why we have massively increased the funding to local authorities so that they can address the challenge of social care, and why we have published the adult social care coronavirus winter plan in order to provide short-term support for local authorities to achieve exactly what the noble Baroness has spelled out.

The Lord Speaker (Lord Fowler): Short supplementaries, please.

Baroness Pitkeathley (Lab) [V]: My Lords, when there is a shortage of care workers, as there clearly is, the need for care does not go away; it simply falls disproportionately on the families and neighbours—the unpaid carers. Some 70% of these say that they have had to give more care than previously during the pandemic, with an average of 10 hours extra a week. How will these extra burdens on unpaid carers be recognised and supported both in the long-term plan and in social care reform, when we eventually get it?

Lord Bethell (Con): My Lords, I pay tribute to all those who contribute to the care of loved ones, neighbours and people in their community. The noble Baroness is entirely right to acknowledge the enormous contribution, born of civic duty and personal love, that people put into caring for those in need. I acknowledge the 10 extra hours that she mentioned; I have no doubt that many have had to put in extra work during the pandemic. That is why we have put in significant financial support for the charity sector, and these are the considerations that we will put into future social care reform.

Baroness Walmsley (LD) [V]: My Lords, health and care workers can now be reimbursed for the immigration health surcharge. While this is unlikely to fill the gap identified by the noble Lord, Lord Dubs, it is welcome. How are the Government ensuring that all care workers who do not work in large hospitals are aware of their right to the refund, and how are they monitoring what percentage of those eligible are making the claim and what sort of establishment they work in?

Lord Bethell (Con): This is a very important piece of communication. We have sought to work through the colleges and through the CQC system in order to make sure that employers make knowledge of these funds available to those in social care. I will look at the department to see what we are monitoring and what the take-up rates have been, and if I have any further information I will be glad to write to the noble Baroness with that data.

Baroness Wheeler (Lab): My Lords, on agency staff, according to workforce statistics from the Department for Education in February, the number of agency social workers grew by 10% last year. Cheshire East Council, for example, spent more than £1.3 million on agency social workers last year, and these costs also include the fees that the authority has to pay to the agencies. What funding and other support has been provided to local councils specifically to enable them to reduce the reliance on agency staff and to ensure that the money spent on temporary staff in social care departments, care homes and domiciliary care can instead be used to increase the number of permanent, full-time and part-time staff in social care that are so desperately needed?

Lord Bethell (Con): My Lords, the use of agency staff in itself is not something that we are fighting against. Agency staff, although often denigrated, provide an incredibly valuable contribution to the social care efforts of the country. That said, the main way in which we can address the dependence on sometimes expensive employment practices is to ensure that there is a really large pool of people taking the kinds of jobs offered in social care. That is why we are marketing those roles heavily, improving the employer brand around social care and improving the financial arrangements for those seeking training in social care.

Baroness Eaton (Con) [V]: My Lords, the latest annual Care Quality Commission *State of Care* report shows that quality levels in adult social care have been maintained, with 84% of services rated as either good

or outstanding, up from 82% last year. Given the dedicated service of our care workers, will my noble friend the Minister update the House on whether a new deal for care workers will include action on pay, training and development, career progression and professionalism, as well as ensuring that those working in care are recognised in the same way as those working for the NHS?

Lord Bethell (Con): My Lords, I echo the tribute paid by my noble friend to those working in social care during the pandemic. Naturally we have a huge amount of concern about those in social care during the pandemic. However, it is amazing how much hard and committed work those who work in social care have put into the arrangements and how effective many of those arrangements have been. The numbers that she cites are really impressive. I cannot make the commitments that she asks of me right now, because the deal for social care workers has not been written, but I completely acknowledge the suggestions that she makes; those are very much on the wish list and the agenda for any social care reform when it happens.

Lord Crisp (CB) [V]: My Lords, is the Minister familiar with the work of the Tribe Project? It was set up by a successful digital entrepreneur and is now being used by six local authorities to predict the needs for care, match people with carers, and, very importantly in this context, support professional carers in setting up independently as microenterprises. This reduces overheads and therefore both improves care income and reduces costs. Does he agree that this approach could be very useful in helping with this crisis, and will he explore it further?

Lord Bethell (Con): My Lords, I am extremely grateful for the noble Lord's recommendation. The project that he describes is incredibly interesting. I am not aware of it today, but I will definitely seek it out and try to find out more. I emphasise the broader point that the noble Lord is making: fresh thinking, digital innovation and the work of entrepreneurs to try to create new ways of working—to pool, for instance, the efforts of teams of people and to use platforms like the one that he describes—can make a massive difference in the area of social care. We are very supportive of digital entrepreneurs bringing fresh thinking to this important area of work.

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

Fleet Solid Support Ships *Question*

12.19 pm

Asked by Lord West of Spithead

To ask Her Majesty's Government what assessment they have made of the value for money to the taxpayer of building the new Fleet Solid Support Ships in (1) the United Kingdom or (2) overseas;

and whether any such assessment includes (a) the level of tax paid onshore, (b) any requirement to maintain skilled jobs, and (c) any strategic requirement for a minimal shipbuilding capability in the United Kingdom.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, it is too early in the procurement process to assess the value for money of building fleet solid support ships in the UK compared to overseas, and it would be inappropriate to comment in advance of a new competition. The Secretary of State has already said that he will make an announcement about the progress of the programme during the autumn, and the criteria for assessing the FSS bids will be produced in accordance with Her Majesty's Treasury guidelines on seeking best value for money.

Lord West of Spithead (Lab): I thank the noble Baroness for her Answer. I am delighted that the Secretary of State has classed Royal Fleet Auxiliary vessels as military. These three ships should have been ordered more than three years ago. I hope that the integrated review is concluding that our outward-facing island nation needs a maritime strategy as a basis for its national security. Will the Minister confirm that a maritime strategy needs ships, that the UK's shipbuilding strategy needs ship orders and that building of military ships will be onshore?

Baroness Goldie (Con): I reassure the noble Lord that it would be a very curious defence capability that did not have a maritime capacity. As we look to the challenges of the global world in the years to come, it seems that a maritime capacity will be an essential part of our capability. The Government are aware of the importance of the UK's maritime industries. As the noble Lord will be aware, the Prime Minister appointed the Secretary of State for Defence to be the shipbuilding tsar for this very reason. The challenges which the noble Lord articulated are recognised.

Baroness Bryan of Partick (Lab) [V]: My Lords, on the possibility of awarding this contract within the UK, hopes have been raised and dashed countless times over the past few years. Does the Minister agree that the UK's post-Covid industrial recovery strategy must weigh up the benefits of enabling some 6,500 skilled jobs in the shipbuilding industry against the long-term damage to people, local industries and the wider economy of losing those jobs? Will the Government support retention of shipbuilding by awarding these contracts within the UK?

Baroness Goldie (Con): Like the noble Baroness, coming from Scotland, I am well aware of the significance of shipbuilding to Scotland, not least to our communities on the Clyde. The process has been put in place to proceed with the three new fleet solid support ships. Making them exempt from the EU procurement regulations will put us in a position to make informed decisions as to the approach that represents the best chance of success while realising our ambition to bring shipbuilding home.

Lord Mann (Non-Aff): As we leave the European Union, will the Minister agree that, when it comes to building military assets, British workers and British companies are perfectly capable of delivering what is needed and they should be given all orders?

Baroness Goldie (Con): I think the noble Lord is being slightly mischievous in his question and understands that I cannot make a specific response in the way in which he would desire. What I can say is that the Government are well aware of the significance of our indigenous UK shipbuilding capacity. We are engaged in a process in respect of the three new ships. As I said to the noble Lord, Lord West, the criteria for assessing the bids will be produced in accordance with Her Majesty's Treasury guidelines, seeking best value for money.

Lord Robathan (Con): My Lords, while we are talking about value for money to the taxpayer in defence spending, I am sure that my noble friend noted the immensely valuable and highly effective work done by the Armed Forces in this coronavirus crisis, particularly with the Nightingale hospitals and in testing. When she goes to various discussions about the security review, can she note that we need a large defence budget and a large pool of manpower to be effective in cases such as this?

Baroness Goldie (Con): My noble friend will be aware that the integrated review, which I think is the review to which he refers, is concerned with the broad and difficult question of what threats we face and whether we have the capability to meet them. That is the question which has to be resolved by the review process. The Government are acutely aware of the significance of defence to the United Kingdom. He is absolutely right: the MoD has played a proud and effective role in supporting our public agencies and other entities during the pandemic.

Baroness Smith of Newnham (LD) [V]: My Lords, the Minister has twice referred to the Treasury guidelines on procurement, but the other area where the Treasury is hugely important is in agreeing the size of the defence budget. We have had a Budget postponed this year. Is she confident that the resources will be there for three support ships?

Baroness Goldie: I reassure the noble Baroness by reminding her that this Government have a proud record in relation to our commitments for budget to the MoD. We had a clear manifesto commitment to continue to exceed the NATO target of spending 2% of GDP on defence as well as to increase the budget by at least 0.5% above inflation every year of this Parliament. As she is aware, we are the largest defence spenders in Europe and the second-largest in NATO.

Baroness Redfern (Con) [V]: When a ship is built, we immediately look at the hull and structure. Steel is vital to the UK's manufacturing industry. Does my noble friend the Minister agree that this is also about

[BARONESS REDFERN]

retaining capability of repairing sophisticated, highly technical ships? What support is being given to recruitment in technical apprenticeships, which are critical to our continued sovereign capability?

Baroness Goldie (Con): I am pleased to say that, broadly speaking across the UK, defence supports more than 300,000 jobs in the private and public sectors. I know at first hand that a number of them include modern apprenticeships. I have met some of those apprentices, and they are not just a tremendous advertisement for the talent, particularly among youth, within the country but a tremendous reassurance about the continued provision of skills to our essential industrial partners.

Lord Touhig (Lab) [V]: On 5 November, it will be one year since the Government suspended competition for building the fleet solid support ships. Sir John Parker, who wrote the review of the implementation of the *National Shipbuilding Strategy*, recommended at the time that

“UK-only competition should be considered for future defence-funded vessels.”

Have the Government accepted Sir John’s advice? Will they get on with the job, or will the words “dither and delay” as well as “incompetent” come to mind whenever people speak about this Government?

Baroness Goldie (Con): I feel slightly wounded by the noble Lord’s charge; I shall try not to take it personally. Of course, there was disappointment at the paucity of interest when the contract was originally put out. I think that it is now recognised that there were perhaps reasons for that. An internal review then carried out by the Royal Navy was helpful in ascertaining exactly what the role of the fleet support ships was to be and what they were meant to do, particularly in relation to the carrier strike group. Based on that review, we were able to make informed decisions as to the approach that best represents what we need to make a success of that support role. As he may be aware, the prior information notice, which set out the details being sought, indicated that there is a revised design for the ships. I am pleased to say that, in response to that notice, there has been a very healthy level of interest.

Viscount Trenchard (Con): My Lords, will the Minister confirm that in the new support ships programme the overriding priority will be best value for the UK defence budget? Might this involve giving orders to consortia, including British and foreign companies working together? Has the impact of any delay in delivery of new ships beyond the end of the service life of Royal Fleet Auxiliary “Fort Victoria” been costed?

Baroness Goldie (Con): We are aware of the scheduled end of service for “Fort Victoria”, which is in 2028. We are satisfied that we can make the necessary arrangements to continue the support which will be required. On delay, as my noble friend will be aware, the National Audit Office has made it clear that it is

too early to say what impact stopping the original competition process might have on the entry into service of the fleet solid support ships. We will seek to mitigate any delay, and we shall certainly assess—as we are currently doing—the interest of those parties which have responded to the prior information notice process. We hope to proceed to make further information available to Parliament on the procurement strategy.

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

Food Hygiene Rating Displays

Question

12.30 pm

Asked by **Lord Rooker**

To ask Her Majesty’s Government what is the estimated cost to the taxpayer of requiring food business operators in England to display the relevant food hygiene rating score at the entrance to premises.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, the highly successful food hygiene rating scheme plays a key role in protecting public health. I thank the noble Lord for championing the scheme and am grateful for his continued support. Making display of ratings mandatory is a sound proposal to which we are giving great consideration. There would be some minimal cost to the taxpayer but significant benefit in terms of improved food safety.

Lord Rooker (Lab) [V]: I am grateful for that positive answer from the Minister. From my time at the Food Standards Agency, I realise that the legislation is there in place and we now have the evidence. Since 2014, when all English local authorities joined the scheme, we know that 70% of food businesses that scored only zero to two do not display it. It would be tragic if we ended up with a food poisoning outbreak before acting. We know from Wales and Northern Ireland that it can be very successful. I wish the Minister well. It could be slipped in on the back of any Bill going through the House that is related to public health.

Lord Bethell (Con): My Lords, I completely endorse the noble Lord’s points. There is robust evidence that the FHRS has driven up hygiene standards in food businesses, thereby reducing the risk to consumers. It was identified by the Royal Society for Public Health as one of the top 20 public health achievements of 21st century. We have received a case for a statutory scheme in England, and Ministers have given a commitment in Parliament to consider the scheme in due course.

Baroness McIntosh of Pickering (Con) [V]: My Lords, I pay tribute to the local authorities, not just in connection with this scheme but in connection with the testing that they do, particularly environmental health officers. They are at the front line of keeping us all safe from

food poisoning and food fraud. But does my noble friend share my concern that, while some individual councils have an excellent track record of testing, others do hardly any at all? Is he concerned at the lack of resources that cash-strapped councils might face at this time to prevent food fraud occurring?

Lord Bethell (Con): My Lords, the pattern of food inspection rates across the country is uneven, as my noble friend points out. However, the costs of implementing this scheme should not and might not be a hurdle for implementation. We believe that it would actually serve as a potential encouragement for those doing food inspections to see the results of their work published in a mandatory fashion.

Baroness Boycott (CB) [V]: My Lords, I come back to the point made by the noble Lord, Lord Rooker. I was left a little uncertain as to when the Government would make it mandatory for all food outlets in Britain to display these notices, as it is in Northern Ireland and indeed in Wales. Everyone agrees that it is a brilliant, simple and overall cost-effective way of ensuring health, so when will it become mandatory and universal across England?

Lord Bethell (Con): My Lords, I cannot commit at this point at the Dispatch Box to a date, as the noble Baroness has asked. However, I will express an enormous amount of warmth towards the idea. I acknowledge that only 55% of businesses in England display their ratings for their premises, whereas in Wales, where it is mandatory, the number of businesses with the highest rating of five has increased by 25% since the introduction of mandatory displays in 2013. That is surely good evidence that the scheme has impact and works.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, but is the Minister aware that in Uxbridge, of 263 food outlets, 21 have not been inspected and 30 scored only between zero and two and, as my noble friend Lord Rooker said, are unlikely to display that? If this is replicated throughout England, there will be thousands of outlets not displaying it. Until it becomes mandatory, what are the Government going to do about it?

Lord Bethell (Con): Well, my Lords, the situation in Uxbridge is clearly one of grave concern, and I share the noble Lord's concerns—but that is not the national picture. As I said earlier, in England generally 55% of businesses display their rating. This is not enough, which is why we are considering the measure with the scrutiny that we are.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, we all agree that the food hygiene rating scores are important to give the public confidence in the food being prepared, sold and served to them. As we have said, there is no legal requirement to display that score. If you have a score of five, you proudly display it; if you have a one or two, it is in some dark corner which nobody sees. As other noble Lords have said, it is really important, especially at this time, to restore public confidence. I urge the Minister to go

back to the Government and get this done soon. It is a local government issue, not really a health and safety one.

Lord Bethell (Con): My Lords, I completely acknowledge the persuasive statistics from the noble Baroness. FSA analysis suggests that food-borne illness outbreaks are twice as likely to occur in businesses with a low rating than those with a rating of three, four or five. These are very concerning figures. We completely take on board the statistics that the noble Baroness has cited, and I shall take them back to the department, as she suggests.

Baroness Altmann (Con): My Lords, has the pandemic had any impact on the overall food standards and hygiene ratings of various outlets? Do local authorities need more resources to continue to carry out the checks that they are required to make?

Lord Bethell (Con): My Lords, it is probably too early to make an accurate analysis, but one impact that has happened in the food industry is the move to online deliveries. That is why we are considering the application of mandatory rating for online deliveries as well as for restaurants. Online deliveries are a terrific benefit to society, but it is important that they also have regulatory scrutiny, and we will bear that in mind in any future review.

Baroness Wheeler (Lab): My Lords, the consumer magazine *Which?* has warned that customers are at risk of being left in the dark or misled about food hygiene standards and that the regulator and local councils need to take strong action against businesses that fail to display ratings, or display incorrect ratings that mislead customers. What action are the Government taking to address this? Would he agree that England following Wales and Northern Ireland in the mandatory display of food ratings, as well as restoration after the savage cuts to local council food hygiene budgets and local environmental health services and staff, would help to tackle this problem?

Lord Bethell (Con): The noble Baroness puts the case very well. I completely acknowledge that the FSA favours extending mandatory display ratings to England and that in June and November last year the National Audit Office and the Public Accounts Committee respectively recommended that the FSA pursues this ambition as soon as possible. We very much take on board the views of all these public bodies and will consider the advice given to Ministers as soon as possible.

Baroness Ritchie of Downpatrick (Non-Aff) [V]: My Lords, the Minister has indicated a warmth towards placing this rating on a mandatory footing. For the avoidance of doubt, can he indicate what is stopping the Government from doing it? Is it the legislative timeframe?

Lord Bethell (Con): My Lords, the immediate concern is, of course, the epidemic, which has slowed things down. It means that management resources that should be dedicated to things such as this are currently distracted.

[LORD BETHELL]

But I reassure the noble Baroness that work is being conducted on the advice being given to Ministers. Updates have been given in the other place on the progress of this policy. I can do nothing more than express warmth at the moment, but there will be decisions and movement on this in the near future.

Baroness Warsi (Con): My Lords, I draw the House's attention to my interests in the register. Do the Government have national details of the number of inspectors employed by local authorities to carry out these food hygiene and environmental health inspections? What is the national guidance, if any, on the frequency of these inspections, and is funding a determining factor?

Lord Bethell (Con): My Lords, the role of the inspectors is a local authority responsibility. While there may be national figures, I am afraid that I do not have them at my disposal, but I would be glad to write to my noble friend Lady Warsi with whatever data we have on the questions that she has asked.

Baroness Burt of Solihull (LD): My Lords, could not the taxpayer get even greater value for money if the rating incorporated a rating on how well premises were adhering to Covid safety measures? That is the kind of reassurance that I would like to see before I walk through the doors of any catering establishment.

Lord Bethell (Con): Well, the noble Baroness makes a strong case. I think a lot of consumers would like to see the kind of rating that she describes. I am not sure whether it is rightly the responsibility of food inspectors to provide that complex service, but we are working very closely with the hospitality sector on both tracing and the implementation of Covid-friendly measures. The response from the sector has been extremely strong, but we are maintaining a close analysis of progress.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We now come to the fourth Oral Question.

Nagorno-Karabakh

Question

12.40 pm

Asked by Baroness Falkner of Margravine

To ask Her Majesty's Government what steps they are taking in relation to the conflict in the Nagorno-Karabakh region.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Baroness Sugg) (Con): My Lords, the UK continues to urge de-escalation and an immediate return to the negotiation table in our engagements with our partners, including the Azerbaijani Minister Bayramov and the Armenian Foreign Minister Mnatsakanyan. We have also been in contact with the Turkish and Russian authorities to

discuss the matter and we continue to believe that the best solution to this conflict is a peaceful negotiation under the framework of the OSCE Minsk Group.

Baroness Falkner of Margravine (CB): My Lords, the sad fact is that innocent civilians are being maimed and killed while the Minsk process continues to fail them—as it has for over 25 years. But so, too, has NATO failed, in so far as Turkey's rampant authoritarianism and turbo-charged nationalism imperils its allies' interests in Syria, in Libya and, now, in Nagorno-Karabakh. Can the noble Baroness tell the House what discussions Her Majesty's Government are having within NATO to curb Turkey's power and reassess its membership as a last resort?

Baroness Sugg (Con): My Lords, I join the noble Baroness in her concern at the reports of civilian settlements being targeted. We are deeply concerned about that and, as I say, we urge an immediate return to the ceasefire. Yesterday, the NATO Secretary-General highlighted NATO's concern about the escalation of hostilities and called for all sides to immediately cease fighting. He also said that he expects Turkey to use its considerable influence to calm tensions. We welcome these calls. Turkey is a key NATO partner and we continue to work in NATO to encourage it to use its influence to calm tensions.

Baroness Ramsay of Cartvale (Lab) [V]: My Lords, does the Minister agree that the war in the Caucasus over Nagorno-Karabakh is definitely worsening, with an increasing number of casualties, as areas determine to regain territory they consider theirs? What are the Government doing with other like-minded countries, not just in NATO, to at least get a ceasefire? Also, given that the US is preoccupied, are we really going to let Russia and Turkey literally call the shots?

Baroness Sugg (Con): My Lords, I acknowledge that we are seeing an increase and escalation in the fighting, which is deeply concerning. The UK is working at a number of levels to try to bring about an end to this, including in the OSCE and through our diplomats on the ground. Our Minister for European Neighbourhood has spoken to her counterparts and, yesterday, the Foreign Secretary issued a second statement with the Canadians. The US President and Secretary of State have also issued strong statements calling for a return to the negotiating table.

Lord Campbell of Pittenweem (LD): I welcome that last answer from the Minister but, with the real possibility of a regional proxy war, should we not be calling on our NATO ally Turkey not to get further involved? As for Russia, which has influence on both sides, should we not ask it to get more involved?

Baroness Sugg (Con): My Lords, we are working with both Turkey and Russia on this. We are speaking to the Russian authorities in Moscow and we are working closely with the Turkey and its Defence Minister. The Secretary of State visited Turkey last week and raised this issue. We are working with all parties that we need to in order to bring an end to this conflict.

Lord Randall of Uxbridge (Con) [V]: My Lords, what assessment, if any, have Her Majesty's Government made of a potential increase in terrorist recruitment or activity as a result of this dangerous instability in the area?

Baroness Sugg (Con): My Lords, we are of course working to ensure that external partners do not escalate this issue further. We call on all external partners to help bring about the peace that we need to see.

Baroness Cox (CB) [V]: My Lords, is the Minister aware that legal experts, such as Geoffrey Robertson QC, argue that Azerbaijan's repeated claims to sovereignty over Karabakh can be refuted? It has always been predominantly occupied by ethnic Armenians. A referendum was held in 1992 with an overwhelming vote for independence, and Azerbaijan's previous attempt at ethnic cleansing justifies Nagorno-Karabakh's claim for self-determination under the UN charter. Azerbaijan's continuing attempt now at ethnic cleansing involves violations of international law, including targeting civilians with tanks, helicopters, heavy artillery, multiple-launch rocket systems, including Smerch, and cluster bombs. What are Her Majesty's Government doing to more actively promote an urgent ceasefire?

Baroness Sugg (Con): My Lords, I pay tribute to the noble Baroness's work in this area; I know that her charity HART does a lot of work in Nagorno-Karabakh. We are taking an active role in this as best we can. We are working with a number of our like-minded partners within the OSCE, as I mentioned, and we are working within the UN Security Council and NATO to try to bring about a de-escalation. On sovereignty, the UK supports the sovereignty, territorial integrity and independence of Azerbaijan, while underlining the importance of the UN and OSCE principles. We support the OSCE Minsk Group process and the basic principles that sit beneath it, including a return of the occupied territories and the acceptance of the free expression of will on the status of Nagorno-Karabakh.

Lord Collins of Highbury (Lab): My Lords, I want to return briefly to my noble friend Lady Ramsay's point about the vacuum that has been created. We have all the statements in the world saying, "Stop this war", but we had a process—the Minsk process—we had talks, and we even had a framework agreement. What is the noble Baroness doing to ensure the United States returns all its efforts back to that process so that that vacuum is not filled by other players in the region?

Baroness Sugg (Con): My Lords, we support the role that the US is playing in the Minsk process; I mentioned before the strong statements from the President and the Secretary of State on this issue. We believe that the Minsk process is the best way to bring about an end to this conflict. The role of that group is to facilitate the negotiations—as I said, it has proposed a set of basic principles—but it is for the parties themselves to negotiate a peace agreement. We recognise that that must involve compromise and hard choices, but there is no military solution. We need the parties to return

to the negotiation table, with the help of the co-chairs—the US, France and Moscow—and we believe that that is the best way to bring about an end to this conflict.

Lord Addington (LD): My Lords, would the Minister agree that this is a conflict which has a long history, where everybody blames everybody else and everybody blames the backers of their enemy? Could the Government put as much pressure on as possible to allow journalists in, so that the rest of the world knows what is going on? We could do without propaganda from both sides clogging our view.

Baroness Sugg (Con): My Lords, I agree with the noble Lord that the roots of this conflict are complex and predate the collapse of the Soviet Union. Apportioning blame is not the solution. I also completely agree about the importance of media freedom. We are concerned about disinformation in this conflict, and we are concerned about reports of lack of access to the internet. We will do all we can to facilitate access to the region so that we can understand what is happening.

Lord Alton of Liverpool (CB): My Lords, notwithstanding what the noble Baroness has just said about lessons from the past, has she considered, as I was asked to do while visiting Nagorno-Karabakh, how the indigenous, overwhelmingly Armenian community see this violence as an extension of the Armenian genocide, which claimed 1.5 million lives with international indifference leading to Hitler's infamous remark, "Who now remembers the Armenians?" In the light of the current attacks on civilians, will we be joining Canada in suspending arms export permits to Turkey? Will we press, as my noble friend Lady Cox called for, for the prosecution of those responsible for war crimes and crimes against humanity in Karabakh?

Baroness Sugg (Con): My Lords, we continue to monitor developments in the region closely. We consider all our export applications against a strict assessment framework. We will keep all licences under careful and continual review. We comply with the OSCE arms embargo relating to the Nagorno-Karabakh region, which is considered as part of our export licensing process, and we will continue to work closely with Canada. We have issued a number of joint statements with Canada, and we will work closely with all like-minded parties to bring an end to this conflict.

Lord Griffiths of Burry Port (Lab): My Lords, much mention has been made of the Minsk talks, which are now over 25 years old and are about the possibilities of bringing peace—but are without any outcome that we can appreciate—and of various other bodies that have been in conversation with our Government about ways forward at this crucial stage. Azerbaijan and Armenia are both member states of the Council of Europe, as indeed are Turkey and Russia, with the United States on the sidelines as an observer. Would this not be a forum through which, especially with its focus on human rights, we could stimulate a more broadly based response to the present crisis—particularly, perhaps, focusing on the civilian

[LORD GRIFFITHS OF BURRY PORT]
losses, which have been widely reported—in order to get a new sense of purpose in what is a very long-standing dispute?

Baroness Sugg (Con): I acknowledge the noble Lord's point on the length of this conflict, and of course we must use every avenue we have to try to bring about an end to the conflict. We continue to urge dialogue and we are clear that the only lasting solution to the conflict can be a negotiated one, but I will certainly take the noble Lord's point on the Council of Europe back to the department to see if there is yet further we can do within that organisation.

The Lord Speaker (Lord Fowler): My Lords, the time allotted for this Question has elapsed and we have come to the end of Question Time.

12.51 pm

Sitting suspended.

Areas with Additional Public Health Restrictions: Economic Support *Commons Urgent Question*

The following Answer to an Urgent Question was given in the House of Commons on Tuesday 6 October.

“The decision to extend tighter lockdown measures to Liverpool City Region, Warrington, Hartlepool and Middlesbrough was based on the latest health evidence, including advice from the Chief Medical Officer and local public health authorities. The resurgence of the virus has demanded further action to minimise harm to health and well-being, while preserving the ability of people to work and businesses to trade in the areas affected. That is why, throughout this crisis, we have sought to strike a balance between minimising the burden faced by businesses and protecting public health. To that end, we have provided one of the most generous and comprehensive packages of support for people, businesses and public services, totalling £190 billion by July.

As the path of the virus and the threat to the economy have become clearer, we have taken further decisive action. Last month, the Chancellor announced the winter economic plan—a package of targeted measures to protect jobs and businesses, including the job support scheme to support the wages of employees in viable jobs and an extension of the self-employed income support scheme to the end of April 2021. We are also continuing the temporary reduction in VAT for hospitality until the end of March 2021 and the Government-backed loan schemes until the end of November this year. We are also providing an additional £100 million in surge funding to support the hardest-hit areas in containing Covid-19. That is on top of the £300 million provided through the test and trace programme. We are offering grants to businesses that have been required to shut because of the new measures, worth up to £1,500 for each three weeks of closure.

Throughout this pandemic, we have prioritised a flexible and adaptable approach to economic support. We will continue in that spirit, and we stand ready to evolve our policies as required.”

1 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, one-quarter of the population are now living under additional local restrictions. People are trying their very best to abide by the rules and guidelines, but have to do so in the face of senior Ministers misspeaking on crucial points of detail, contradictory policy initiatives, particularly in relation to homeworking and in the hospitality and events sectors, gaps in economic support schemes, leaving our creative industries and others on the brink of survival and accused of being unviable jobs, and serious shortcomings in what was supposed to be a world-leading test, trace and isolate system. To that list we can now add the lack of meaningful engagement with local leaders over the introduction of new restrictions, and late and inconsistent decisions on support for local authorities enforcing restrictions and for the businesses and jobs put at risk by them.

In recent days, we have seen packages worth £3 million for Leicester, £7 million for Liverpool City Region, an undefined amount for the north-east of England and nothing for Greater Manchester or the West Midlands. So, what criteria determine the allocation of support to areas under local restrictions? Will they be published? If not, why not? When can we expect a sector-by-sector plan to protect jobs and rebuild businesses?

Baroness Penn (Con): My Lords, taking those two questions in turn, I have to disagree with the noble Lord on the issue of funding. Greater Manchester has received £2 million in surge funding for test and trace, out of a £100 million pot. A £300 million pot has been provided to local authorities across England to fund local test and trace responses, while those affected by local lockdowns can bid into the £100 million pot. That is in addition to the extra grant funding of £3.7 billion that has gone to all local authorities.

There is then the economic support. There are two main components to the economic support that comes with local lockdowns. If areas have businesses that have been forced to close, the local authority has received funding to provide grants to those businesses of either £1,500 or £1,000 every three weeks, depending on the size of the business. Then there is the support for self-isolation payment, which is funding provided by central government to local government to deliver for those who have received a positive result from test and trace, have been asked to self-isolate and are on low incomes.

Baroness Kramer (LD): My Lords, the Chancellor replaced the furlough scheme in the expectation of a V-shaped recovery. We have anything but that: as the noble Lord, Lord Stevenson, described, the reality is severe restrictions across the country and across the nations, and experts are now calling for a second lockdown. Will the Government listen to local leaders, who understand what is happening, and save thousands of businesses and hundreds of thousands of jobs that are viable in the long-term but will be lost without action, and reinstate furlough into 2021?

Baroness Penn (Con): My Lords, the furlough scheme was not replaced in the expectation of a V-shaped recovery. The Government would, of course, love to have a V-shaped recovery, but I do not think anyone has been that optimistic so far. However, we are in a very different place from when furlough was put in place. We are not in the position of a lockdown—we are attempting to do everything we can to avoid such measures—and, while there are restrictions in place, many businesses are able to trade and go about their business, albeit at reduced levels. That is why so much support has been put in place, including, for example, extending the VAT cut on hospitality from January to March. We will continue to respond when necessary, but the furlough scheme represented a particular phase in our response to coronavirus and we are in a different phase now.

Lord Forsyth of Drumlean (Con) [V]: My Lords, does my noble friend agree that if you break it, you should pay for it? Do the Government not have an absolute moral duty to compensate and support viable businesses made unviable as a result of their regulations?

Baroness Penn (Con): My Lords, we are putting in place a huge amount of support to businesses affected by the regulations to contain coronavirus. I referred to the support for businesses that may be forced to close by local lockdowns. Of course, there is also the bounce-back loan scheme that has provided billions of pounds of support, and we have extended both the application period and the repayment period for that scheme to up to 10 years. This will halve monthly payments, which do not even come in in the first year—the Government are covering those.

Lord Bilimoria (CB) [V]: My Lords, a second national lockdown will be devastating for our economy, so it is right to prioritise bringing infections under control. Local lockdowns are a crucial piece in the puzzle of managing the risk of infection and reopening the economy, so we must get good at them. Does the noble Baroness agree that all restrictions must be based on clear, transparent evidence, that rapid mass testing must be turbo-charged—where are we with that?—alongside test and trace, and that further support should be considered for those sectors worst hit by lockdown measures? Does she agree that, with local lockdowns becoming more prevalent, we should have a tiered or graded approach to local lockdowns to make it easier for firms and individuals to know the rules, as well as what sort of support to expect? Moving from grade 1 to grade 2 or grade 3 lockdowns should trigger escalating levels of support. It is important that the support is available to business in lockstep with any tightening of restrictions.

Baroness Penn (Con): My Lords, the decisions made on local lockdowns reflect the situation in the local area and, wherever possible, are made in agreement with local leaders. We are working each week to increase the capacity of our testing system so that it can support track and trace. Those areas affected by local lockdowns can access more money to support those who may need to self-isolate or businesses that need to close, and more money to support local test and trace measures to get the infections under control.

Baroness Clark of Kilwinning (Lab): A major concern raised by mayors and other local leaders is the lack of communication from the Government. The Minister will know that the economy looks very different in different parts of the country. For example, in London it is said that about four in 10 workers could work at home, whereas in Barnsley it is only two in 10. What can be done to improve the communication from the Government with mayors and other local leaders to put together and negotiate economic packages of support?

Baroness Penn (Con): My Lords, my understanding is that there is ongoing communication with local leaders in all the areas affected by local lockdowns. I am sure we can always do better, and we will continue to strive to do so. The noble Baroness is absolutely right that the economy in different parts of the country is incredibly different, so we will work with local leaders to try to reflect that in our response. We have provided some national measures to support jobs, but there will also need to be a local response in areas that have the severest restrictions.

Baroness Verma (Con): My Lords, will my noble friend look at cities such as my own, Leicester, where we have been in a second lockdown since June and where sole traders and small businesses have really struggled to access the packages that the Government have generously put forward? They have just failed to be able to get the money and are really struggling. We have been in lockdown for a very long time in Leicester, and those businesses will go out of business if there is no support, so will my noble friend be willing to have a meeting with some of those small businesses and sole traders, just to see if there are things that they have missed out on?

Baroness Penn (Con): My Lords, I will take that request back to the Treasury. I would be happy to meet local leaders, but it may be that someone else might be slightly more appropriate. There may be small businesses and sole traders that feel they might not qualify for the support, many of which actually would qualify for bounce-back loans. A further piece of reassurance that can be given to them is the change in repayment terms for those loans, bringing down the monthly repayments, should they wish to take advantage of that. I also emphasise to those local businesses that local councils in areas such as Leicester have been given funding to provide support for local businesses that might not meet one set of criteria or another but still rightly expect some kind of support from the Government. I urge them to engage with councils and ask how they can access that additional funding provided by the Government.

Lord Clark of Windermere (Lab): Has the Minister seen yesterday's letter from the four mayors of the major cities of the north asking to be involved in the implementation of new lockdown measures? In view of their unique, detailed local knowledge, will the Government do so?

Baroness Penn (Con): My Lords, I have seen that letter. I have two things to say in answer to the noble Lord's question on the implementation of local lockdown

[BARONESS PENN]

measures. First, local authorities have been given £300 million for locally implemented test and trace initiatives and a further £100 million of funding is available for local authorities which have higher outbreaks to bid into. In addition to that, £60 million has been made available for further enforcement of lockdown measures—£30 million for the police and £30 million for local authorities.

The Deputy Speaker (Baroness Henig) (Lab): My Lords, the time allowed for this Question has elapsed.

1.11 pm

Sitting suspended.

Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020

Motion to Approve

1.16 pm

Moved by Lord Bethell

That the Regulations laid before the House on 14 September be approved.

Relevant document: 27th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, the virus continues to spread. We will put in place measures to break the chain of transmission and to protect the NHS, but at the same time our strategy is to support the economy, keep our schools open and, wherever possible, maintain normal life—for friends and family to meet and for businesses to remain open. These regulations play an important part in that objective by contributing to enhanced contact tracing, some, but not all, through the NHS app.

The instrument before the House requires designated venues to collect contact details and display an official NHS QR poster. To give a sense of the impact of these regulations, as of 9 am this morning there were 16,302,038 users of the NHS Covid app. Any one of them can check in at 634,488 posters that have been downloaded by designated venues. We know that this is proving popular, because there have been an astonishing 19,721,804 check-ins so far. I encourage noble Lords to exercise their digital skills and take advantage of this important protocol.

If local public health officials determine that one of these venues is linked to an outbreak, they can send a message with the necessary health advice to all those whose timing and proximity coincides with the infection. This might include a requirement to isolate for 14 days.

Privacy is key. An individual who has been in one of the venues in scope of this policy can rest assured that their contact details will be shared confidentially with local public health officials. This will then allow the individual to receive the necessary health advice. Alongside other requirements, this will increase public confidence to go out and use these venues.

I will now set out why this measure is necessary and how uptake has increased following the introduction of the regulations. On 2 July, the Government issued guidance to the hospitality sector and asked designated venues to collect contact details. This led to manual, handwritten logs in some venues, and homemade and commercial logging systems in others. The guidance was in place for two months, but there was a growing level of non-compliance. Surveys indicated that around two-thirds of respondents were asked for their contact details some or all of the time, but many were not. According to our surveys, only 43% of people said that they were asked for contact details in all the venues they visited. We saw video evidence as part of media reports showing multiple establishments not adhering. My experience endorsed this coverage: I pay tribute to the Prince Bonaparte pub in Notting Hill for its diligent commitment to these protocols, but I shall not mention some other pubs I have visited where standards have been more lax.

This uneven application of voluntary rules meant that local public health officials often struggled to obtain the contact tracing information they needed. In one instance, a pub in Bolton had been identified as a potential outbreak source, as many of the positive cases had been on the premises. Unfortunately, when contact tracers contacted the venue to access its logs, they contained only names and postcodes. It took up significant amounts of precious time, using appeals on social media, to trace potential infection. This prevented public health officials providing targeted public health advice to those who had been at risk and raised needless worry among others. This is only one of many examples, and something needed to be done to address this significant risk at a time when daily case numbers were rising rapidly across the country.

This instrument has made the requirement on businesses clear. It has given local authority officials powers to enforce penalties on businesses which do not comply. Since bringing in this measure, we have seen the public and business community embrace this policy. It is hugely significant. If an outbreak is then linked to a venue, a message can be sent to the app user on the advice of local health protection teams, providing the necessary public health advice.

We know that the Covid pandemic has disproportionately affected vulnerable groups such as the elderly and people living in high deprivation. These at-risk individuals are less likely to have access to smartphones, so it is essential that a system is in place to contact-trace people who do not have the app. The logs that designated venues must have achieve this. From a recent engagement with industry, we know that designated venues are implementing these requirements. For example, one trade association found that 95% of businesses were fully compliant. Two-thirds of members are capturing data electronically in advance through online or telephone bookings, whereas remaining businesses have introduced customer and visitor logs.

Research in New Zealand, which has a similar system to ours, has assessed that rapid case detection and contact tracing, combined with other basic public health measures, has over 90% efficacy against Covid at the population level, making it as effective as many

vaccines. This shows the importance of ensuring that NHS Test and Trace can reach more contacts overall, meaning that more people are provided with appropriate public health advice when they need it.

While these measures apply to England only, we have learned from the approach taken in Scotland and Wales. Colleagues have found a marked improvement in compliance, and although these regulations have been in place for less than three weeks in England, we are already seeing positive signs.

Because of the issues I have just described, we have used emergency powers to introduce these regulations. I recognise that in different circumstances, it would have been preferable to publish them in plenty of time before they were laid and to have brought them before the House before their enforcement. This point has been made in the past, it is acknowledged, and it is understood. We have put together a register of future potential regulations in an effort to improve our housekeeping. However, perhaps I may say a few words in mitigation.

We were hesitant about mandatory enforcement, as we seek to apply Covid-related regulations through voluntary compliance wherever possible. However, we decided to act because of the increasing rate of positive Covid cases, the evidence of non-compliance and the feedback from local public health officials, who were unable to contact people who may be infectious to provide the necessary public health advice.

I know these regulations place additional requirements on businesses and other sectors, which we have sought to mitigate. To reassure noble Lords, we continue to work closely with the sectors in scope to ensure that these measures do not cause undue burdens. Furthermore, the regulations set out that a review must take place within six months of their coming fully into force, and the Secretary of State for Health and Social Care keeps their necessity under consideration between formal review points. We will have these measures in place only for as long as necessary.

This instrument is already benefiting individuals and businesses, and as your Lordships have heard today, individuals and businesses recognise that this is a key tool to prevent further societal and economic restrictions, which we all desperately want to avoid. These regulations are enabling NHS Test and Trace and local public health officials to suppress the virus, to support the economy to remain open, and to protect individuals and their loved ones. The public should therefore be confident to visit and work in these venues, knowing that they will be contacted if they have been exposed to the virus. Providing this reassurance is essential to returning to a more normal way of life and supporting businesses to prosper. I beg to move.

The Deputy Speaker (Baroness Henig) (Lab): As the noble Lord, Lord Liddle, is not contactable at the moment, I call the noble Baroness, Lady Barker.

1.25 pm

Baroness Barker (LD): My Lords, we return yet again to the subject of NHS track and trace. In view of our discussion yesterday, it is right for me to put on record with the Minister that we on this side of the House understand entirely the need for local and

national action and for those to be complementary. However, they need to be informative of each other; it is not a matter of putting in place centralised top-down systems and not picking up on local data. Only by co-ordinating national and local action will we beat this thing.

We come to these regulations with no regulatory impact assessment. More than that, after three weeks, we have nothing but assertions on the Minister's part that they are working well and are necessary. The Government are very short on evidence when they come back with repeated requests for regulatory powers. That cannot go on indefinitely. We on this side of the House are quite willing to support actions that are necessary and proportionate—we have been from the very beginning—but frankly, the Minister is trying the patience of the House when he repeatedly requests powers without any evidence to back them up.

I ask the Minister: how many people have not engaged with this process only because they have concerns about the privacy of their data—about it being shared beyond the NHS and local authorities? If people could be absolutely sure of that, there might be far greater uptake. I say that, but I have eaten out only once in the last six months. I happened to be with a group of four people, and I was not the contact person. Had I subsequently tested positive, I would not have known how to go about telling the establishment. If this is going to work to maximum benefit, we ought to look now at how it works in practice and could be made more effective.

On refusal of entry, what evidence do we have so far that that power is being used, how it is being used and who is enforcing it? What evidence is there that it is working? On what basis was the £500 fixed-penalty notice decided, how does it compare to other fees and penalties, and who is in charge of tracking the evidence that that works?

On fixed-penalty notices, Regulation 18(11)(a) states that they can be enforced by “authorised” persons such as

“a constable ... a police community support officer”

and

“a person designated by the Secretary of State for the purposes of this regulation.”

Who would that be? Are they the infamous marshals we expect to come riding to our aid any day now, with undefined powers, no skills and no resources?

Finally, when will the Government share the data on the implementation of these regulations? It is great to have three weeks of positive signs, but for these powers, the Government need to tell us a bit more about what is coming. Before the Minister comes back to ask that these powers be extended, will he provide a full statement on their impact for the whole of England?

1.29 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, I declare my interests as set out in the register. It is a great pleasure to follow the noble Baroness, Lady Barker, who has very impressive forensic skills.

I thank the Minister for setting out the background to these regulations. His prodigious work-effort continues to be incredibly impressive. I am surprised that he has

[LORD BOURNE OF ABERYSTWYTH]

managed to make a tour of west London pubs to see which are complying with the regulations, but obviously, he has, so congratulations on that too.

I strongly support these regulations. It seems to me that we all have a great interest in having an effective test and trace system. For that to work properly, we do need back-up, and this provides it. I share many of the concerns expressed by the noble Baroness, Lady Barker, but I come from a position of thinking that these regulations are very necessary and, as stated, they came into force some 20 days ago. I have had a chance to look at the regulations, and I do have some questions on them. It may be that my noble friend is not able to answer them all on the hoof today, as it were, but I would be grateful for a response in writing, with a copy to other noble Lords and to the Library, if he is not able to do so.

My noble friend indicated that some 634,000 businesses or institutions have downloaded the QR code facility. Is he in a position to indicate what percentage of those needed for this to be effective across the board that represents? It may be that is a very high percentage, and that we are not looking significantly elsewhere for other institutions to sign up, but it would be interesting to know how many have not done so, and what percentage that represents.

Further, with regard to the specific persons and institutions affected by these regulations, I do have some specific questions. First, in the Explanatory Memorandum, there is an exemption for police and security officers visiting businesses. I understand that, in an emergency, it may not be appropriate for them initially to download or indicate with the app that they are present—they are pressed, in terms of doing other things. However, there will be visits by police and security officers that are not in that urgent situation, and indeed, in situations where there is an urgency, subsequently it is surely desirable that their presence there is also recorded. So I wonder why that exemption exists, and whether there will be some review mechanism so that we are able to extend these regulations sensibly to those who should be affected by them.

In relation to accommodation—hotels, B&Bs and so on—I would be interested to hear from my noble friend whether short-term accommodation of the likes of Airbnb, which are well run and largely overseen by the Short Term Accommodation Association, are part of this system, bearing in mind that in many cases there will be remote check-in, and that people using these facilities may not come into contact with anybody at all. But on occasion, of course, they will. So I wonder whether there is a particular position there in relation to such businesses. In relation to non-commercial businesses, it seems that only commercial businesses, or commercial accommodation, I should say, are covered. What about hostels that are not run on a commercial basis—faith accommodation and so on? Why are they not subject to this? Art fairs are covered; why not antiques fairs and book fairs? These are detailed questions.

I strongly support the regulations. I am pleased that over 16 million people have downloaded the app. It needs to be many more, but we are making good progress here, and I congratulate my noble friend.

1.33 pm

Lord Bilimoria (CB) [V]: These regulations impose a number of obligations on relevant persons in order to protect against the risks arising from coronavirus. Businesses and other public settings where people meet socially, including hospitality, close contact and leisure venues, must record contact details of customers, visitors and staff on their premises to tackle the spread of coronavirus. The details must be stored for 21 days and shared with NHS Test and Trace if requested.

All that makes sense, but Jeremy Hunt, the former Health Secretary, recently questioned the current Health Secretary, Matt Hancock, on whether the entire system of testing needed to be overhauled. He argued that the underlying problem was that the Lighthouse laboratories—the Government-funded facilities there to supplement existing public laboratories—had been “overwhelmed by demand”. As the chancellor of the University of Birmingham, I say that we have a testing facility on site and one of the top medical schools in the country. And yet, I am told, there is a piece of machinery that NHS Test has—there are about six of them—which, if we were to get hold of one of them, would enable the testing at the university facility to go up multifold. Why is that being held back? Why are these pieces of equipment not being released to increase capacity? This is an urgent situation.

At the same time, business resilience—I say as president of the CBI—is lower than it has ever been, with cash and stockpiles run down. We must get this right. We know that business knows public health must come first, and we have been doing all we can to keep staff and customers safe, whether in pubs, shops, factories or offices. Local restrictions come as a disappointment for many businesses across the country, but the Government cannot stand by as infection rates rise in the region. We must aim for a no-surprises approach as far as possible when restrictions are put in place, and not all restrictions are one-size-fits-all. We have seen this from the full lockdown in Leicester and the household-based restrictions in Greater Manchester, west Yorkshire and elsewhere.

Then we have the 10 pm closing of pubs, bars and restaurants. I declare my interests, but will the Government tell us where the evidence is that this is required? The scientific evidence I have heard is that less than 5% of new infections come from the hospitality industry, which employs 4 million people and which has really suffered—it was closed for three and a half months, from 23 March to 4 July. From my knowledge in the trade, only 10% of drinking happens after 10 pm. So why do this—quite apart from the unintended consequence of people spilling on to the streets and going elsewhere to drink?

When it comes to testing capacity, Professor William Hanage, of the TH Chan School of Public Health at Harvard University, has said, on the lack of mass testing:

“By the time you become aware of the problem it is likely to already be much larger. You are not going to detect outbreaks if you don’t look for them.”

He called for

“very good diagnostic tests as well as tests that may be less sensitive but can be used more frequently.”

Why are the Government not procuring the mass testing that is available?

The Abbott Laboratories BinaxNOW test, which is \$5 and gives results in less than 15 minutes, has been approved by the FDA, but I believe has been rejected by our Government. I am told that Greece—a country that has dealt with the pandemic relatively very well—has ordered millions of these tests. If it is good enough for the FDA, and if it is good enough for Greece, which had a death rate of 36 per million vs our 663 per million, why is it not good enough for us? They are producing 50 million of these, and there are other equivalent tests that give these instant results and are affordable.

When it comes to false positives, anyone who has tested positive with these instant tests can immediately have a PCR laboratory test to confirm that it is positive. So surely, by not doing this, by not having the mass testing, we are saying that the best is being the enemy of the good. This mass testing will enable our economy to fire on all cylinders. From a cost-benefit point of view, we are talking about a £2 billion a month cost if you test everyone twice a week in the whole population. We have been spending hundreds of billions supporting the economy. If we have mass testing, our country can get on.

So, a vaccine is on soon and the testing is needed urgently—

Baroness Penn (Con): My Lords, I must remind the noble Lord—

Lord Bilimoria (CB) [V]: Thank you very much, I am just about to stop. I would like to conclude by saying we need this testing urgently now.

1.38 pm

Lord Hunt of Kings Heath (Lab) [V]: My Lords, this debate is taking place three weeks after these regulations came into force. As Big Brother Watch points out, the impact of this legal change cannot be overstated. The regulations introduce the potential for the mass recording of citizens' movements by an array of overstretched businesses.

I am not opposed to the regulations, but it is simply not acceptable—and I repeat what has been said in the last week—for these kinds of draconian measures to be introduced without Parliament having its say first. I listened to what the Minister said this morning; I also listened to the Secretary of State last week. Can we really have an assurance that this will not happen again?

Secondly, I want to return to the major point made by the noble Lord, Lord Bilimoria, about the impact on the hospitality industry. I know that the Minister himself is doing his best to keep it going, but the fact is that, although this is a not a new provision and in a sense it has been voluntary, it will have an impact on the hospitality business. The Explanatory Memorandum accompanying the regulations says that a regulatory impact assessment is not required because it will cease to have effect after less than 12 months. But what we do need is an impact assessment on the series of such regulations, which are having a total impact on the industry, such as the 10 pm curfew.

It is being widely let out that the Government intend to introduce a new system of three levels of alert locally. My understanding is that alert level 2 would restrict meetings in pubs and restaurants, and alert level 3 would see the full closure of the hospitality sector, allowing for takeaway services only. Will this House and the other place be able to debate those regulations before they come into law? I certainly hope so, because they could spell the death knell for many businesses, and it would be quite wrong, although they are local regulations, for that to happen without prior parliamentary approval.

Will there be a clear framework for decision-making around the restrictions? I know that we will debate the Birmingham regulations later this afternoon, but I commend to the Minister the views of the city council on the approach that might be taken. It argues that the Government should avoid adopting a one-size-fits-all approach and take a more nuanced approach to decision-making which incorporates: clarity on criteria for escalation, such as the rate of infection per hundred thousand of population that would trigger an escalation to the next level of alert; an evidence-informed approach; clear criteria that would trigger an exit; and a sufficient package of support to businesses to sustain them through the winter if they are placed under an alert. Will the Minister and his colleagues talk to Birmingham and other local leaders about the sensible approach needed if the Government are going ahead with this new system?

1.41 pm

Lord McColl of Dulwich (Con) [V]: My Lords, I approve of the regulations, which came into force on 18 September. As the virus is spreading rapidly, the regulations are essential to collect certain contact details from customers, visitors and staff. Keeping this information for 21 days also seems reasonable and essential to enable NHS Test and Trace and local public health officials to contact vulnerable people and give them advice to help curtail the spread of the virus.

These debates and media discussions have been bedevilled by people who concentrate on destructive criticism but offer no practical solutions. For instance, we hear scientists saying, “There is no scientific evidence for the rule of six”, but is there any scientific evidence that such a rule would be harmful? Why do they not say what number they would suggest? Some of these scientists seem to behave more like party politicians than unbiased scientists. Should those doom and gloom merchants in Parliament and the media not realise that their repeated vitriolic outbursts do nothing but demoralise the public?

1.43 pm

Lord Greaves (LD) [V]: My Lords, I support everything that my noble friend Lady Barker said and declare my interest as a local councillor, in view of what I am going to say.

There are serious civil liberty issues here, serious data protection issues and, more to the point, serious issues about operational practicality, but I do not want to say more about those things, except: does it mean that everybody who is involved in collecting this information

[LORD GREAVES]

has to register with the Information Commissioner as a data controller? What is happening to make sure that happens, if that is true?

I really want to talk about the problems that issues like this cause in areas with two-tier local government, where there is the county council—the Health and Social Care Act set a public health function at county level—and the districts, which have always been the local public health bodies. The old public health inspectors, 45 years ago, became environmental health officers, but they are still there and do the work. They are the people who, for example, are skilled and trained in tracing infectious diseases locally, but the Government really have not been using them as well as they should have been during this pandemic. When it comes to checking premises such as pubs, restaurants and all the rest which are listed here, it is the environmental health staff from the district council, who do that anyway—for example, food standards inspections—who will be doing this work in many areas. They are employed by the district councils, but Regulation 4 on “Interpretation” states that

“‘local authority’ means ... (b) a district council in England for an area in which there is no county council”.

Otherwise, it is a county council.

On power to close premises which are not carrying out all the distancing regulations—pubs, for example—it is the county council and the county officers who possess the powers, but it is often the district council officers, who are on the ground and know the patch in a way that county officers do not, who will be doing the legwork and investigations and deciding that a pub needs to close. The same will be the case in checking that data collection—names and addresses under this regulation—is being carried out. The people who do the work are from the district, but the people who have the powers to enforce are at the county. This is causing delays and extra unnecessary bureaucracy. If the districts were given the power alongside the county, this would be solved, and I hope the Minister will look at it.

1.47 pm

Lord Naseby (Con) [V]: My Lords, these regulations are pretty comprehensive, and I wish to make five observations that I hope will be helpful against a family background of two doctors, and myself as a former leader of a local authority as well as a Member of Parliament. The first is on care homes. I commented on inspections in the review debate on 28 September, and since then I have double-checked the situation of Care Quality Commission inspectors, who are currently just wearing a mask rather than having undergone a Covid-19 test. No one else is allowed into a care home or a nursing home without a test, because people there are very vulnerable. I now understand that the decision was made in August and backed by the Department of Health and Social Care without any consultation with the National Care Association. Surely this needs to be reviewed urgently.

Secondly, staying with care homes, and mentioning that my wife is a former general practitioner, is it true—[*Inaudible*—] simply looking after them? If so, that seems an error. It may not be accurate, in which case the Minister can put my mind at rest.

Thirdly, we know that part of the rise in infections is due to young people, as mentioned in paragraph 7.14 of the Explanatory Memorandum. What discussions were held with the Department for Education, the universities and sixth-form colleges and other colleges—[*Inaudible*.]—before students went back to university or college? Did any discussions take place? Did the Department of Health take the initiative and—[*Inaudible*.]? The comment of my colleague, the noble Lord, Lord Bilimoria, on mass testing is highly relevant here.

Fourthly—[*Inaudible*.]

Baroness Penn (Con): My Lords, we are having trouble hearing the noble Lord. We heard his first three questions. I suggest that we come back to his final two questions when his connection is restored, and move on.

1.51 pm

Lord Loomba (CB) [V]: My Lords, these regulations underpin the Government’s intent to ensure that transmission of the virus is halted by maintaining fully up-to-date information for the track and trace system on who has come into contact with a person who has tested positive for Covid-19. This is an admirable aim, but some questions remain over the robustness of the overall system for tracking people and with regard to privacy.

First, on the catastrophic failure of the IT system that transfers the positive test result data over to the track and trace system, as case numbers began to rise far more than it could cope with, the system failed at the first hurdle due to the larger volumes. If this part of the track and trace system is also predicated on the same legacy Excel software as that of the positive-case data, it is entirely possible for that to fail too, causing many people not to be contacted early enough, or even at all, if a glitch goes unnoticed. Is this part of the tracing system underpinned by software in the same way as the positive-case data software? Are there any in-built warning signals to alert authorities if this system fails to deliver?

My second point is on the validity of any data stored, given the reports that some people are not leaving their correct details with venues. What is happening to follow this through in order to ensure that people are properly traced? Also, given that some venues are not asking for information directly but leaving it up to customers to comply, the system does not appear robust enough. If a venue does not store that data, there is no way in which the Government are going to know that a person has been there, unless they are a positive case, in order to find the business guilty of failing in its legal duty.

My third point is on privacy. While the Government require venues to keep information only for 21 days, what measures are in place to protect citizens from data loss and breaches of privacy, so that they can have faith in using the system?

1.54 pm

Lord Hamilton of Epsom (Con): I think that my noble friend the Minister would accept that these measures being taken to combat the pandemic have to involve a trade-off with what happens in the economy.

If we go back to the original decision to lock down the economy totally in March, if someone had made the point at that stage that it would result in 70% of our businesses shutting down completely for three months with the result that millions of people would lose their jobs—many for the foreseeable future—would we have reached that original decision to go for total lockdown?

I agree that most countries took the view that total lockdown was the answer, but the Swedes did not. The result is that the Swedish economy is forecast to shrink this year by something like 5.5%, while the latest figures are that our economy will shrink by between 11% and 12%—double the rate and double the impact of job losses. That is also true of this measure.

I have only one question for my noble friend. Was a cost-benefit analysis ever carried out before the original measures were taken to lock down the economy totally, and has such an analysis been made on the measures before the House today?

1.56 pm

Baroness Jones of Moulsecoomb (GP): My Lords, these regulations are excessive, intrusive, punitive and potentially discriminatory to older and poorer people. They also raise important questions about compatibility with data and privacy laws.

On data protection, collection of contact details is important, but a lot of places gather this personal data without any security. I have also visited pubs and I can say that some keep their log-books open and available for other people to take photographs of them. This would clearly infringe all sorts of privacy matters. Has the Minister issued enough guidance for places of entertainment in order for them to fulfil their obligations under the Data Protection Act?

Regulation 7 states that premises do not need to collect personal details of people who have, “scanned the QR Code displayed”.

However, no definition of “scanned” is given. Therefore, in practical terms, what is a premises operator supposed to do to check that the QR code has been scanned properly? Should they check the person’s phone or make some other judgment call? These are important legal questions because, if a premises operator needs to check a phone to make sure that the code has been scanned properly, they would need to be sure that they can avoid a conviction and fine under Regulation 17 if the scan was not done properly.

The Minister was ingenious in calling the delay in presenting regulations such as these “housekeeping”. This is not housekeeping but an erosion of democracy. I am delighted that he said that the regulations would be improved but when, how and how fast? There are now so many coronavirus regulations that I do not understand how people are expected to navigate and ensure that they are not breaking them. The Prime Minister and other Ministers have fallen short in many TV interviews and been unable to answer quite basic questions on what the rules require, or to distinguish between law and guidance, advice and common sense. These were not actually “gotcha” questions but straight-forward questions about what people should be doing in certain places. The Government are imposing extreme

restrictions on people. I understand that they are to fight a pandemic that we have not seen for 100 years, but they must have some reasonable basis. What plans do the Government have to simplify the regulations and bring them all into one coherent framework?

I go back to the erosion of our democracy. Why are we consistently being given only a few minutes to question the Minister? I do not see any reason for the House to rise at 5.15 pm today. Why can we not carry on for longer and have a proper debate on these issues? We have so much space in our timetable at the moment. While we have big Bills to consider, there is also a lot of space, and I do not understand why we cannot take some of that space to debate these issues properly. It seems me to me that there is a clear avoidance on the part of the Government to be scrutinised about these issues.

2 pm

Lord Robathan (Con): My Lords, it is a pleasure to follow the noble Baroness, Lady Jones, with whom I find myself almost exclusively in agreement—that is sometimes a little worrying, and she may be worried as well. She has pointed out how confusing this package of regulations is, and not just these ones. I have been looking at them and I am pretty confused. They are profoundly antipathetic to traditional British civil liberties. They are also unworkable, as shown by the problems we have discovered with the test and trace system. Yesterday evening, I went to a restaurant with my wife. We were the only people there. The proprietor was beside himself. Before these and other regulations were laid last month, his business was picking up, but this package of regulations is destroying the hospitality industry. That is a huge cost to the economy and there will be escalating unemployment, so I have to say that I find this extraordinary.

Yesterday, I received a reply to a Parliamentary Question that I put down some time ago. In fact, it was given by Professor Sir Ian Diamond, of the UK Statistics Authority. The figures show that 14.4% of those aged under 65 without known comorbidities die from this virus, which makes for something in the region of 800 deaths since February. Some 450 people die from cancer every day. Every death is tragic, but the impact of these regulations is that in fact more people are dying from cancer than might be necessary because of the impact on the NHS.

The totality of these restrictions is causing untold harm and unnecessary deaths:

“Keeping these measures in place until a vaccine is available will cause irreparable damage, with the underprivileged disproportionately harmed.”

That quote is from the Great Barrington Declaration, which noble Lords will find in the media at the moment. It is a petition started by leading epidemiologists and public health scientists. I urge the Government to show courageous leadership and ignore the hysterical media and focus groups and change tack, rather than double down on their policies. Allow the vulnerable to shield themselves and to take sensible precautions, and allow society to get on with life. The impact on our children’s future and the economy is already devastating, with no end in sight for the catastrophic social and economic damage being caused.

2.02 pm

Baroness Noakes (Con): My Lords, the regulations are one more proof point that the Department of Health and Social Care is suffering from Covid derangement syndrome. The syndrome features an obsession with just one thing: Covid-19. The department seems to have forgotten that it is not the Department of Covid, it is the Department of Health and Social Care. Since March this year, non-Covid patients have been largely ignored. There is a huge backlog of elective surgery and diagnostic tests. Cancer treatments were not started or were paused. My right honourable friend the Secretary of State for Health said this week that cancer patients may be guaranteed the treatment that they need only if Covid-19 stays under control—whatever that means.

There is a legitimate debate to be had about how the use of NHS resources should be prioritised. The costs and benefits of treating Covid-19 patients should be set alongside what is happening to other patients. The department has refused to analyse whether its Covid-dominated strategy is the best outcome in health terms, let alone in the broader economic context.

Another symptom is the inability to connect to reality. The Secretary of State for Health has said that the strategy is to suppress the virus until a vaccination arrives. But the Secretary of State should know that an effective vaccine may not in fact arrive, or may not arrive any time soon. Even if one does, by some miracle, get through all the testing and approval processes in the next few months, the chairman of the department's own vaccination task force has said this week that less than half the population would be vaccinated.

Sufferers from Covid derangement syndrome seem convinced that all solutions must be authoritarian and backed by enforcement. Thanks to the Prime Minister, we got some freedoms back after lockdown, but for every freedom granted, the department plots some other restriction or tightening. That brings me to the regulations before us today.

Back in July, hospitality and other venues were allowed to have a crack at rebuilding their businesses which had been wrecked by the lockdown policies. They were asked to keep records of their customers and visitors. Consumer surveys—not business surveys—reported 67% compliance on being asked for contact details, which is pretty good, as some businesses would already have the contact details of their clients and customers on their databases. But that was not good enough for the department. It turned to evidence from contact tracing and focused not on the thousands of contacts which are household-related, accounting for 70% of contact tracing, but on the category of food outlets, where tiny numbers in double digits were identified. Yes, they were rising, but they were still small. The department got its blunderbuss out and fired off this order, piling more restrictions on all businesses which are desperately trying to get back on their feet while complying with all of the Covid-19 restrictions, such as social distancing and now a 10 pm curfew. Small and medium-sized businesses will rightly question why they should have to bear the burden of feeding a test and trace system that is still so dysfunctional.

I hope that a new vaccination will be developed soon, but this time to deal with Covid derangement syndrome. It should be compulsory for everybody in the Department of Health and Social Care to be vaccinated.

2.07 pm

Baroness Uddin (Non-Afl) [V]: My Lords, when the technology works, it is impactful, and therefore access to these enabling facilities is critical. Of course, we do not live in a world that is socially and economically equal by any measure. Therefore, I urge the Minister, as I have done before, that when measures such as these are presented to the House, an equality impact assessment must be embedded. That is absolutely necessary, particularly when the regulations state that there is no human rights impact but then proceed to list many possible infringements and punitive punishment measures. I therefore add my voice to those of the noble Baroness, Lady Barker, and others, who have called for the Minister to present a current analysis of what is happening on the ground, right now, when bringing forward SIs. This is important and extremely pertinent, so that we can continue to support these retrospective government measures and regulations.

The Minister listed the impressive number of people who have downloaded the app. Indeed, as someone who is getting to be comfortable with these things, that is impressive. However, what evidence is available to the Government on the use of this app and compliance with the test and track requirements? Are they being taken up by those in vulnerable communities where infection rates are the highest? Does the noble Lord accept that the messaging has some way to go to reach into those communities where language barriers and socio-economic disadvantages, including digital disadvantages, are so significant? These are people who remain extremely vulnerable to the upcoming surge in infection rates and admissions to hospital. If so, we will have to learn the lessons of the last deadly period.

I have spoken to the owners of a number of hospitality businesses, including to Mr Atique Choudhury, the owner of Yum Yum. Incidentally, his father, Mr Dabirul Islam Choudhury, a pioneering restaurateur and a centenarian, has raised £250,000 for the NHS and related charities. I hope that the Minister will take this opportunity to commend his incredible work. Mr Choudhury and others in the British curry industry have emphasised that they have invested significantly in keeping customers safe by ensuring effective compliance, with some using manual records to meet the requirements.

There are massive concerns about data management. Without a trustworthy track and test system in place, it feels as though we are playing Russian roulette with our populations. This has been said by one of the restaurateurs; it does not come from me.

I also reiterate points I have made before about safeguarding data, particularly when it is being collected manually—how it is being accessed and who will have management and control responsibility. I cannot fathom the rationale of keeping classes going in some universities and schools where there have been positive Covid incidents. We know that restaurants and other businesses would be forced to close for 28 days, which may be unnecessary. Intense so-called fogging can take place, which does not require prolonged closure of businesses.

There are lots of issues and not enough time for us to express many of the frustrations we have learned. I agree with many noble Lords that these regulations should be viewed with caution and dread. I ask the Government to ensure that they speak to all our citizens with consistency and clarity.

2.11 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I thank my noble friend for bringing these regulations forward today and, in particular, for his admission that it would help to publish such regulations before they are laid. That would be very welcome. They should also be brought to Parliament before they are implemented in future. Those two developments would help the industry and both Houses to scrutinise them.

My noble friend is under no illusion about how great the impact of Covid has been on the hospitality sector, which reopened late in the day, only in July. I find the application of these regulations particularly helpful, as they appear to help hospitality facilities, which are their target, to remain open. The announcement over lunchtime today that Greene King may close a number of establishments, some permanently, with a mass loss of jobs, is deeply worrying and possibly the tip of an iceberg.

I will ask one question and make one comment and proposal. Could my noble friend clarify the level of fine for a first offence? It seems reasonable for £500 to be the top level for a first offence, because there could be a difficulty in understanding and adhering to the rules. An increased fine for a second or third offence would seem reasonable. However, one part of the regulations before us today says that £500 will be the first fine; in another place, I see £1,000. I make a plea for £500, which seems more reasonable.

It is not the work of his department, but my noble friend is aware of this and I have raised it in connection with other regulations. Since Covid-19 became so extensive, water companies have been regularly testing wastewater at both household and community levels. It is then sent off for analysis by the Environment Agency. The thrust of debate on these regulations, the previous Urgent Question and all comments generally is that we need lockdowns that are as localised and short as possible. The benefit of testing wastewater is that, while it cannot be limited to individual households, it can be limited to a narrow community. Could my noble friend see whether his department can liaise with the Environment Agency and Defra to see whether the information gathered could be used to target more specific, community-based, smaller lockdowns, which would last for shorter periods? That would help both the local community and the hospitality industry, which has taken the brunt of the regulations, such as those before us today.

The Deputy Speaker (Lord Alderdice) (LD): We ran into some technical problems earlier, so I propose to try again to hear the last two questions of the noble Lord, Lord Naseby.

2.14 pm

Lord Naseby (Con) [V]: I have two quick points. Paragraph 10.1 of the Explanatory Memorandum says:

“There has been no public consultation in relation to this instrument.”

My question is whether there should be automatic consultation with relevant trade bodies and associations, so that they are on side. In that way, they can be helpful, rather than being left on the sidelines, having to criticise. My second short point is that local authorities are still complaining that they are not being contacted, either in time or in depth. An earlier speech by a noble Lord raised that problem. I thank the Deputy Speaker for allowing me to add to the three points I made earlier.

2.15 pm

Lord Paddick (LD): My Lords, first, I reassure the House that I have not been promoted to health spokesperson for these Benches; an administrative error has thrust me into the spotlight. But I asked to speak in this debate for two reasons: first, my practical experience of over 30 years of policing; and secondly, my experience of this statutory instrument working in practice.

The purpose behind this statutory instrument is laudable: to keep a record of patrons using establishments so that, if they shared a space with someone who tests positive for coronavirus, they can be traced and informed. However, like other noble Lords, I have concerns about the way it operates in practice.

The first is the display of a QR code, so that patrons entering the premises can use their smartphone to register their presence, instead of the owner or occupier requesting that the person provide their details. Simply using your smartphone to capture the QR code does not register your presence at those premises. The QR code works only if you have downloaded the NHS Test and Trace app and used the venue check-in facility in the app. QR codes are designed, almost exclusively, so that people can scan them to be taken to a website, which is what happens if you do not use the app. I say this because I have done both with my smartphone and it works only if you use the NHS app.

Nothing I can see in the SI says that “A” has to scan the QR code with the venue check-in facility on the NHS app, although I understand the guidance to those who own or operate premises says this. On that basis, surely the person who owns or operates the premises does not commit an offence if someone scans the QR code with their smartphone without using the NHS app. The Minister talks about compliance, but how many patrons have correctly downloaded the app and then scanned the QR code? As my noble friend Lady Barker said, there is no evidence, only assertions, from the Minister.

Secondly, the whole emphasis of this SI is on the person who operates or occupies the premises. Someone who refuses to provide their details commits no offence. Offences are committed only by the person who operates or occupies the premises. Not only that, but they can be arrested for breaching the regulations, as well as being given a fixed penalty of up to £4,000 or even prosecuted. Surely there should be some obligation on the patron to comply with these regulations.

Thirdly, as has been said by my noble friend Lord Greaves, the noble Lord, Lord Hunt of Kings Heath, and the noble Baroness, Lady Jones of Moulsecoomb,

[LORD PADDICK]

and as Big Brother Watch says in its briefing on this SI, where are the data security protections for personal information about who attended which premises and when, if it is recorded by the owner or operator of the premises? Where is the requirement to use the information only for the purposes of health protection and not for marketing, for example? The Minister said that this information would be shared confidentially with local health authorities, but Big Brother Watch says that there is evidence that the data recorded is also being used for commercial purposes. Where are the safeguards against this?

Finally, the food store close to the gym I use in the City of London has a QR code on its door, but shops are not listed in the schedule to the regulations, and the store provides nowhere to consume food or drink on the premises. At every entrance to the Palace of Westminster, including Peers' Entrance, there is a QR code to scan. Can the Minister explain why? Is it because you can get food and drink in these premises? In that case, should only noble Lords and others who use those facilities be scanning the QR code? If not, can the Minister say what the compliance rate is of noble Lords scanning the QR code when they enter these premises? Is this just an example of how another half-baked idea is creating confusion? Of course, legislation such as this needs to be implemented urgently but, when legislation is implemented urgently, it is also essential that Parliament scrutinises it to point out such confusion.

How will this legislation be enforced? As my noble friend Lady Barker asked, will it be the job of these mysterious marshals? Where are the additional resources that local authorities will need for them to comply with yet another duty placed on them by government?

2.20 pm

Baroness Thornton (Lab): I begin every discussion of statutory instruments these days with a preamble outlining our serious concerns about the way in which decisions have been made, announced and brought into law. Somebody said, "Groundhog Day"—I think it might have been me last time—and it sort of feels like that.

In the case of these regulations, there is no justification for their having been laid at the eleventh hour using an urgent procedure. In his introduction, the Minister used the word "housekeeping". That is an inappropriate word for what is democratic accountability. The app has taken six months to roll out and, in that time, thought should have been given to these regulations and key stakeholders should have been consulted. Those stakeholders should have included the industries affected by them, and local government, as several noble Lords have mentioned. That can only help the Government to allow time for those who are going to have to implement the regulations to review them, which would prevent mistakes and reduce the need for amending regulations. As noble Lords will be aware, we have regulations that have had been amended and regulations that have been revoked. A bit of thinking about this could avoid wasting our time and that of the Minister and his officials. Lead-in time to prepare new regulations is vital.

The NHS Covid-19 app was finally rolled out across England and Wales on Thursday 24 September; it uses Bluetooth technology in smartphones to keep an anonymous log of people with whom an individual comes into close contact. However, as we know, it has been plagued with problems, including the fact that up to 70,000 users were blocked from logging their positive test results. Can the Minister explain how that was able to happen? There was never an issue with test results from Public Health Wales labs. I understand that that oversight has now been corrected, but I fear that confidence in this technology is being further eroded.

I am concerned that the UK's contact tracing apps are not cross-compatible. Plenty of people regularly cross the border between England and Scotland, but the NHS Covid-19 app and Protect Scotland do not seem to work in conjunction with one another. Positive test results from one nation cannot be entered into another nation's app—is that true?—and alerts can be received from only one app at a time. This is obviously worrying, so what steps are the Government taking to develop interoperability—a terrible word, but I could not think of another one—between the three UK apps to ensure that contacts between citizens are reliably identified? Does the Minister acknowledge that this could be important to citizens in the border regions of England and Scotland?

It is of course great that 14 million people, including me and my family, have downloaded the NHS Covid-19 app in England and Wales; that is some 24% of the UK population of 66.5 million. However, public health bodies the world over have said that Covid-19 contact tracing apps need to reach a 60% adoption level to give the population effective uptake, so it seems to me that more work needs to be done to reach the 58 million smartphone users in the UK, which is far more than 60% of the population. Why do the Government think that people have not downloaded these apps? Can the Minister confirm that one of the main barriers to the wider use of these apps is compatibility? One in five iPhones and 8% of Android smartphones currently in use in the UK are deemed to be too old, a matter I have raised with the Minister before. Moreover, I understand that the newest models of Huawei smartphones, launched in May 2019, will not be able to run the app due to a ban on sharing technology. Is that true? Does the Minister share my concern that significant numbers of smartphone users are locked out of digital test and trace?

I now turn to the use of the QR code as a precondition of entry. I shall add to the questions that have already been asked. Have the Minister and his officials read the Big Brother Watch brief on this? It is very interesting and says that those of us on the Parliamentary Estate are not complying with the Government's rules and the laws in these regulations, so that is a matter of some concern. I confess that I have not used a QR code on entering our canteen. I will do if that is what I am required to do, but I did not realise that I was supposed to. I would hate to think that we on the Parliamentary Estate are in breach of these laws. However, people who are older, on lower incomes or are less familiar with this technology are sometimes being humiliated because business owners do not understand the regulations

or are applying them in an inappropriate way. There are a series of questions that the Minister needs to answer to make these things work.

2.27 pm

Lord Bethell (Con): My Lords, I am enormously grateful for the thoughtful questions and rich debate that we have had. I shall try to knock off some detailed questions about the app, and I will then address some of the broader themes in the 10 minutes I have. I will try to move as quickly as I can.

A number of speakers asked about feedback on the app over the past three weeks. It often takes three years for government policies to get concrete feedback. We have sought to give as much feedback as we can on this app, and I pay tribute to the app team for operating in as transparent a manner as possible.

A number of noble Lords asked about the fixed penalty fine. Fines are in accordance with the BEIS obligations of undertakings regulations and are independently adjudicated. The initial fine is £1,000 and is reduced to £500 for prompt payment. In response to my noble friend Lady McIntosh, as I understand it, no first offence would incur a fine.

A number of noble Lords asked about exemptions. There are exemptions in the legislation for police and others because it is our assumption that they would be wearing facemasks, so the requirements for them would be different. There is also a facility in app for those who would be in PPE and in close proximity to others, either through a visor or through their personal PPE, such as doctors or shop assistants. The proximity meter on the app can easily be turned off, and it turns itself back on at the end of the day.

My noble friend Lord Bourne asked about Airbnb and other detailed arrangements. There are specific guidelines on guest accommodation, and my understanding is that they would capture Airbnb. We have sought to be as detailed as we can, and there are helpline arrangements for those who wish to query whether their venue is covered by the Act.

The noble Lord, Lord Paddick, asked about commercial purposes. I reassure him and all those in the Chamber that there is absolutely no commercial dimension to the use of the data in the app, and I would be very grateful if the noble Lord sent me any evidence that he or Big Brother Watch think they have to the contrary.

The noble Lord, Lord Bilimoria, mentioned Birmingham University, to which I pay tribute. It has been a terrific partner and ally in NHS Test and Trace and other things, lending us important and valuable equipment. I reassure the noble Lord that this is not simply a matter of having a piece of kit that allows you to run a testing programme. A massive logistical and data programme is required, and its challenges are enormous, so I question the proposition that we should simply send the piece of kit back to Birmingham University and let people there get on with it.

A number of noble Lords asked about the 10 pm closure of pubs and hospitality. There will be a debate on this, but intimacy and the drinking of alcohol plainly encourage people's closer proximity to each other. This is borne out by the evidence from our tracing programme.

Noble Lords also asked about outbreak management. It has become a pretty clear rule of thumb that if you want to find someone with Covid-19, find someone who has already tested positive and introduce yourself to their friends, because they are the most likely carriers. I reassure noble Lords who asked about Abbott UK and mass testing that we are engaged with all the distributors and manufacturers of testing equipment, including Abbott, and we are validating and assessing their equipment at pace.

The noble Baroness, Lady Thornton, asked about interoperability, which is quite right; we are working hard to ensure that the various nations' apps work together and that the apps of different countries can one day work together. We are hopeful that UK interoperability will be built into the second version of the current app. On her question of whether there is a point at which the app is more effective, I reassure her that there is no specific threshold. At the current level of 16 million-plus, the app is extremely effective at breaking the chain of transmission.

Regarding privacy and open logs, I completely agree with the noble Baroness, Lady Jones, that a piece of paper lying on a table at the front of a pub is completely suboptimal. There is a gender issue there, and the safety of vulnerable people, and women, is of great concern. That is why we require pubs and hospitality to comply with GDPR, why the ICO has issued special guidance for pubs, and why we brought into place the QR codes, which we hope will be a suitable alternative for most people.

I assure noble Lords that a huge amount of consultation went into the development of the app and our contact tracing, with local government and with privacy experts and advocates. Massive trials were held on the Isle of Wight and in Newham, and we had important learnings from those, and with the hospitality industry itself, which has embraced these recommendations, a point that has been slightly lost in this debate. However, I take on board the comments about parliamentary scrutiny. If I may repeat myself, my right honourable friend has made a commitment in the other place to greater parliamentary scrutiny, and said that regulations with a national impact, such as these, would be brought before the Chamber and the other place before they are laid. I remind noble Lords that it is up to the usual channels to programme the business of the House, and the Joint Committee on Statutory Instruments reviews SIs such as this before they come to the House, so it is not possible for me, from this Dispatch Box, to give the noble Lord, Lord Hunt, all the reassurances that he asked for.

The question of what the alternative is to these regulations has also been raised. What if we did not have mandatory apps? What consideration has been given to the impact of the mandatory contact-tracing arrangements? There would be a grave danger that hospitality would once again be closed altogether. Hospitality is a vector of infection, and the specific purpose of these regulations is to try to keep our pubs, clubs and hospitality sector open. There is a binary alternative. If we do not seek to protect these industries and venues by measures such as these contact-tracing arrangements, they are vulnerable to being perceived

[LORD BETHELL]

and identified as places where the disease spreads. Therefore, to break the chain of transmission, we would be obliged simply to close them down. Neither I nor anyone affected with the Covid-deranged syndrome want to envisage that, which is why we have brought these measures before the House.

The alternative is to let things just run hot. My noble friend Lord Naseby asked about the impact of our lockdown measures on social care. I remember that in April, in a given week more than 2,000 people died in social care, whereas in the last week it was a much smaller number—fewer than 100 people—which shows that if we apply measures that break the chain of transmission, we can keep control of the virus, but if we let it run hot, the consequence will be a huge number of deaths. In reply to my noble friend Lord Hamilton, I say that any economic analysis of either the lockdown or these measures must include an assessment of the value of those lives.

I genuinely believe that the contact-tracing measures of the NHS app are good news wherever you come from. If your priority is to reopen the economy, these measures help keep open the hospitality industry, on which a great many livelihoods depend, and if your priority is to protect the NHS and those vulnerable to this disease, these measures help protect those either at risk from, or who have been in contact with, the disease, and to help infection-control officers who can give accurate health advice and isolate those who have the disease. I commend the regulations to the House.

Motion agreed.

2.37 pm

Sitting suspended.

Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020

Motion to Approve

2.45 pm

Moved by Baroness Penn

That the Regulations laid before the House on 14 September be approved.

Relevant document: 27th Report from the Secondary Legislation Scrutiny Committee

Baroness Penn (Con): My Lords, the Government set out their approach to preventing, containing and managing outbreaks in the *Covid-19 Contain Framework*, which sets out how national and local partners work together to break the chain of transmission. In other words, it represents a partnership between national and local government. At the national level, the Government have increased the powers available to local authorities through the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 so that local leaders can take targeted action as early as possible.

Public Health England makes detailed data on infection rates available to local areas as well as providing public health advice. Where required, NHS Test and

Trace seeks to increase testing resources to support the rapid identification of cases. For their part, local leaders can complement their legal powers by using all the resources at their disposal to target communications, promote compliance and maximise the reach of testing.

The process of monitoring that the Government have put in place allows us to spot emerging areas of concern early. The Government and local leaders then consult regularly to identify problems and solutions. Our aim is always to consult local leaders on proposed legislative changes and, so far as possible, reach a consensus. This partnership approach has been very visible in Birmingham, Sandwell and Solihull.

These regulations came into force on 15 September, following an announcement by the Secretary of State for Health and Social Care that the latest epidemiological data and local insights supported targeted action being taken to tackle the outbreak in Birmingham, Sandwell and Solihull. The incidence rates in Birmingham had increased to 95.1 per 100,000 of the population over a seven-day period from 2 to 8 September. Test positivity was also high, at 8.1%. Incidence rates had also increased in the neighbouring local authorities of Sandwell and Solihull.

The virus was widespread across wards in these areas, regardless of the types of housing or other factors, which contrasts with more localised patterns that we have seen in other parts of the country. The local director of public health in Birmingham was concerned that household transmission was the key driver of the outbreak, hence the focus in the regulations on mitigating that risk.

The regulations prevent gatherings involving more than one household in private dwellings. This includes outside spaces that are part of those private dwellings. Not only do the regulations prevent people who live in the protected areas from gathering in a private dwelling or garden with any other household, anywhere, but they also prevent people who live outside the protected area from gathering with another household in a private dwelling or garden within the protected area.

However, there are specific exemptions, including for work purposes, education and the provision of emergency assistance. Hotels and care homes and education, military and prison accommodation are not included in the definition of a private dwelling. In general, these regulations mirror the provisions already in place in parts of the north of England and Leicester.

I stress that, throughout, we have worked very closely with local leaders, not least to increase testing and provide crucial data. For their part, local leaders have not hesitated to use their own powers to tackle the outbreak and have worked tirelessly to ensure that communications have reached all parts of the community. I commend them for their response to the outbreak, which included using their local powers to give directions on imposing prohibitions, restrictions or requirements on local businesses to ensure that they complied with Covid-secure guidelines. They also agreed with local bars and restaurants to introduce “table service only” to reduce the risk of transmission before that became a national requirement.

This has been, and continues to be, a shared endeavour. I am sure that the whole House will join me in thanking the local director of public health, Justin Varney, and

local council leaders for their tireless efforts, as well as other members of the local resilience forum, Public Health England and Joint Biosecurity Centre staff.

Since these measures were introduced, the numbers of positive cases in Birmingham, Sandwell and Solihull have, unfortunately, increased, although not at the rate seen in other parts of the country. The incidence rates per 100,000 for the seven-day period from 25 September to 1 October were 145.5 for Birmingham, 113 in Sandwell and 108 in Solihull. Our co-ordinated local and national effort, particularly on the part of people living in these local authority areas, is therefore likely to be reducing the rate of growth, as the incidence rates have not increased in recent weeks to the level seen in other parts of the country.

Household transmission is still understood to be the main driver of current case levels, so it is crucial that these regulations remain in force and for the people in Birmingham, Sandwell and Solihull to continue to observe the “Hands, face, space” practices. These regulations once again demonstrate our willingness and ability to take action where we need to. I repeat that the Government are acutely aware that these are not easy decisions.

The next review of the health protection regulations for Birmingham, Sandwell and Solihull is due on or before 8 October, which is tomorrow. We will of course make public the outcome of this next review in due course. I am grateful to all Members for their continued engagement in this challenging process and for their scrutiny of the regulations. I beg to move.

2.51 pm

Lord Rooker (Lab) [V]: My Lords, I am grateful to the Minister for her explanation. I declare an interest as a Brummie—born, bred, educated and apprenticed. I had the privilege of serving the constituency in which I was born for 27 years in the other place. I live in the West Midlands, in Ludlow, which is of course not in Birmingham, but I still have close connections. My wife and I are members of the police family in Birmingham. I was in the city a few days ago and was really impressed by the Covid precautions in both Snappy Snaps and the Apple Store in New Street.

As the Minister said, the regulations are really the result of the household growth of the virus. Schools and industry do not appear to be the transmission areas. The seven West Midlands local authorities in the conurbation are very closely connected. It would be useful if the Minister could say something in her wind-up about the other four.

My contacts tell me that as far as hospitality is concerned, the pubs in the city centre are being meticulous in how they operate during the day, with their staff rules, and at closing time. But something really ought to be done about other premises selling alcohol after 10 pm. That really ought to be looked at.

Looking at the coronavirus maps for the area, as I did recently, it is very clear that things are mixed across all three local authorities. In some parts the virus hardly figures; in others it is very high. It is also obvious that in areas of high-density housing where multiple generations live, the rates are a lot higher. It would be counterproductive, in my view, to separate areas within a local authority. That would do worse

than stigmatise the high areas—but I do not intend to list the possible consequences, so that I am not misunderstood.

I understand, for example, that the right honourable Member for Sutton Coldfield wants his constituency to be removed. Sutton Coldfield has since 1974 been an integral part of Birmingham, and it is to Birmingham that residents pay their council tax. I appreciate that some areas of Sutton, such as Little Aston, are not included, but its residents do not pay their council tax to Birmingham because they do not live in Birmingham. This needs to be made abundantly clear in the confusion about postal codes. It has nothing to do with the postal codes.

The lockdown is not solving the problems, since the cases are rising in the lockdown areas, as the Minister has just made clear. I understand that the rise can be up to tenfold in a lockdown area. We really need an answer as to why this is.

There are two key questions that I want answers to. First, what Covid number are the Government aiming for to reduce the restrictions or abolish them? Local authorities, and local people, need some idea of what the aim is in order to change the restrictions. Secondly, why are not all areas with the same high case levels subject to local lockdowns? It is now abundantly clear that there is an unfairness around the country. The constituencies of the Prime Minister, the Chancellor and the local government Secretary of State have higher levels of cases than some in the lockdown area, yet they are excluded. Why? It is a legitimate question—not a divisive question, in the words of the Secretary of State for Health, but a factual one to which we really need an answer.

People are being left baffled by the present arrangements. Of course, the key missing ingredient is one that we keep being told about, in many ways, whenever anybody mentions Sweden. There is a big difference: the Swedish population trust their Government. Our population do not trust their Government, and the Government need to do more to engender their trust.

Finally, there has been a virtual silence regarding those people put into shielding in the early months of the pandemic: I declare an interest as one of them. Why is there this silence? If you now live in a local lockdown area and were previously shielding, it is even more worrying not to be told anything about what is going to happen. So there really needs to be a national plan for those who require shielding, whether inside or outside the lockdown areas.

2.56 pm

Baroness Barker (LD): My Lords, it is a privilege to follow the noble Lord, Lord Rooker. I am afraid that my knowledge of the greater Birmingham area is nowhere near as good as his, so I do not know whether he is among the people who were delighted when Aston Villa ignored the rule of six on Sunday—for those of your Lordships with a passing interest in football.

The noble Baroness, Lady Penn, was extremely helpful in her introduction of these regulations. She not only explained that the increase in infection rates was much more localised this time than in March and April of this year but was able to tell us that the

[BARONESS BARKER]

principal transmission route in Birmingham is multiple households, rather than hospitality venues. These regulations therefore contain the rules about two households and linked households. My point to her is that this is not the first area where this has been the case. Like me, the noble Baroness will have listened to the debates on the instruments for Leicester, in which there were similar patterns of transmission. What has been learned from the authorities in Leicester, where I understand that the transmission rates have gone down, with regard to these areas?

The Minister said in her remarks that this measure was due to be reviewed on 8 October. I believe that paragraph 4(2) says that the first review was to be carried out by 29 September. Is that 29 September reporting on 8 October, or what? As the noble Baroness, Lady Thornton, will attest, we are now well into a number of these regulations, and there are more to come. With each one, every time we come into Parliament, we must build on the knowledge of what has happened in preceding areas. We now need to know what is happening. Why is there an increased rate of infection in these areas, but one which is lower than in other areas that are not subject to lockdown?

Finally, I ask two things. Given that this is about transmission between households rather than in the hospitality sector, is the use of fixed penalty notices an appropriate means of enforcing these regulations? Secondly, we need to get to the point where we are on the front foot with this virus. We need to pursue active strategies to knock it back. So what is being done to look at areas nearby, such as Dudley, Wolverhampton or Coventry, where there may be a similar demographic? What information is being exchanged by local authorities, environmental health officers, public health officers and the NHS? These are fairly draconian measures, taken for reasons that we all understand, but we must get to a point where we can refine these orders in the light of experience and better data to get to the point where individual citizens can take their own pre-emptive preventive action, rather than being subject to draconian laws like these.

The Deputy Speaker (Lord Alderdice) (LD): The noble Lord, Lord McColl of Dulwich, has withdrawn, so I call the noble Lord, Lord Hunt of Kings Heath.

3 pm

Lord Hunt of Kings Heath (Lab): My Lords, as a Birmingham resident, I shall focus on the city itself, though mindful of the challenges in Solihull and Sandwell. However, before doing so, I want to focus on a more general matter: the relationship between the Government, local authorities and other public bodies. We have debated this before. I accept that there is a good working relationship between the city councils and the Government, but right from the start the Government generally seem to have excluded local bodies from the key part that they could have played in helping to combat and manage the virus. Public health directors were ignored and NHS and university lab capacity was overlooked.

As the Institute for Government pointed out in its analysis of government decision-making,

“The decisions on lockdown and school closures were taken and introduced swiftly, and with little consultation and planning for how they would work in practice.”

The institute said:

“We heard from senior government officials that, in some cases, they were taking their instructions directly from the prime minister’s daily press conference—with limited or no opportunity to feed in advice before decisions were made.”

Yet at the Conservative Party conference, the noble Lord, Lord Agnew, bemoaned the most overcentralised bureaucracy in western Europe. But was it not the noble Baroness and her colleagues who set up a hyper-centralised organisation to run track and trace, which is now making the most monumental mess of it?

I was struck by a comment from Newcastle City Council leader, Nick Forbes, who said confusions over the latest restrictions were “deeply unhelpful”, and that they were very difficult to enforce and had left dangerous conspiracy theories to fill the void. A frequent complaint from many leaders is that local authorities were often given little notice of when local regulations were to be made.

Last night, in the very interesting response to the Covid Statement, the noble Lord, Lord Bethell, spoke on this. He said:

“The mayor of a city simply does not have a huge laboratory in which to do tens of thousands of tests a day. The mayor of another city simply does not have a control room filled with PhD analysts who can crunch the numbers and run massive supercomputers with complex algorithms to look at millions and millions of items of data within minutes. These are not the functions of local government, nor will they ever be.”—[*Official Report*, 6/10/20; col. 608.]

I have reflected on this, and I fully accept that the Government have at their disposal some very clever and committed people. But at the end of the day, however many experts you have, it falls to politicians to look at the options and make decisions. Frankly, I do not see why local government leaders cannot be part of that process. When you think of the calibre of leaders such as Ian Ward in Birmingham, Newcastle City Council leader, Nick Forbes, or Judith Blake in Leeds, and many others, you can see that they are quite able to look at the data and share in the decisions that have to be made.

My noble friend Lord Rooker asked two very pertinent questions about local lockdowns. Today at Prime Minister’s Questions, Keir Starmer pointed out that the Prime Minister’s own Hillingdon area has a rate higher than some areas where they face new curbs. Why is that? In 19 out of 20 areas that have been under restrictions for over two months, we have actually seen an increase over that period. Why is that, and what does it say for the current strategy on local lockdowns?

The Minister will be aware that, in Birmingham, 15% of cases since the start of September have been in the five to 18 age range, so school transmission is now a significant driver. Contact tracing data since the start of September shows that 83% of contacts for confirmed cases were within households. Hospitality accounts for only 2% of contacts, yet we are threatened with further restrictions on the hospitality trade. Will the noble Baroness ensure that an evidence-based approach is taken if indeed further restrictions are to

be made in that sector? As far as the West Midlands is concerned, it supports 135,000 jobs, contributing £12.6 billion a year to the West Midlands economy.

Finally, will the noble Baroness look at the financing and support given to the city council to see whether it can be increased?

3.05 pm

Lord Greaves (LD) [V]: My Lords, I am tempted to say to Birmingham, Sandwell and Solihull: “Welcome to the party.” They are just behind a lot of the north of England in what is happening. I endorse the comments made by the noble Lord, Lord Hunt of Kings Heath, that the lockdowns are, at best, only partially effective.

I want to look at the questions of where the transmission is coming from and where the primary sources of the transmission are. It is being said that the main source of transition is within households—the noble Lord just mentioned 83%—and that is not surprising. If a couple is living together, or with children, and one of them gets infected, it is not surprising that the infection spreads within that household. But that is not the primary source of infection; a household that is completely isolated will not be infected at all. The infections are coming from other places where people meet together outside. It seems that the evidence for households and families being specifically targeted by the Government is not as strong as people think.

There are essentially three elements to this: there is the economy, and the Government say the economy has to go on; there is education, and the Government say education has to go on; and there is normal society—ordinary families living their normal lives in normal ways. They are the people who, right from the beginning, way back in spring of this year, seem to have been hit hardest. It hits individual people—single people, relatives, grandparents, aunts and so on—and it hits the way in which families operate. Where a couple of friends or sisters share the shopping or the collection of kids from school, they are being told they cannot do this anymore unless they are a specific linked household. That is very restrictive, because one of the households has to be a single adult household.

Some people are saying that household parties are the problem, and I suspect that that is a far greater problem than the ordinary life of ordinary households. But I have been trying to find out where the evidence is for all this, and it is very difficult to find. The leader of Birmingham City Council says that households are the problem and the Government say that households are the problem. I am not brilliant at searching the internet, but I have been looking for all the evidence—I have been looking at the Joint Biosecurity Centre evidence—and I do not find anything. I have been looking at the GOV.UK testing data that comes out every week; it is very thorough, but it does not tell me that households and ordinary families are the real problem. While infection within households is inevitably going to take place, infection between households, and among the slightly wider family, may not be the cause of what is going on to anything like the extent being made out.

Meanwhile, members of families of different generations, or sisters and brothers of the same generation and their families, are unable to mix in a normal way

—people say that it is socially, but it is not just socially; it also relates to the normal way that families operate and work. The inability of people who are strictly obeying the rules—I have to say that a lot of people are not—to do this, is causing a huge amount of distress, illness, isolation and unhappiness, which cannot be in the interests of the children in these families. I challenge that families and households are the fundamental problem.

3.10 pm

Lord Vaizey of Didcot (Con): My Lords, it is a great pleasure to take part in this debate, particularly with the noble Lord, Lord Rooker, with whom I share a birthday—I know this because every year I check the columns of the *Times* to see his name in lights and mine ignored.

At some point with coronavirus regulations, whether local or national, the penny will drop with the Government and they will see that the emperor is wearing no clothes. It has become quite apparent that we cannot eradicate this virus and it will not be over by Christmas. We must find a way to live our lives as normally as possible. As noble Lords have been saying from the beginning of this debate—and no doubt in the preceding debate—nobody can really work out how these regulations are meant to work or why they are being imposed in the way that they are; nobody can work out why a wedding can have 15 people but a funeral 30; and nobody can tell me what on earth a bubble is. If my noble friend the Minister can tell me, I will ask her also to solve Fermat’s last theorem for me.

Noble Lord after noble Lord has talked about the impact on Birmingham. I want to briefly concentrate on the cultural infrastructure of Birmingham, which I know a bit about and which is, to coin a phrase, world-beating. Today, I am delighted that Birmingham Museum and Art Gallery is reopening after being closed for quite a time—and reopening with a fanfare and optimism that has been far too lacking for far too long. Birmingham Museum and Art Gallery is a pretty remarkable place. It is of course the home of the Pre-Raphaelites, but it also recently appointed Zak Mensah and Sara Wajid as the co-chief executives. Two people of colour heading an institution is sadly remarkable, as only one in 45 of our national museums is currently headed by a person of colour.

The Birmingham Opera Company is showing optimism by commissioning a production of Wagner next year, hoping that things will be over by then. Birmingham Rep is the largest commissioning repertory theatre outside of London, but has had to cancel 16 productions. The Birmingham Hippodrome is the largest theatre in the whole of the UK, home to the Birmingham Royal Ballet, now headed by the remarkable Carlos Acosta. Sadly, the Birmingham Hippodrome has cancelled Christmas, but is planning new productions next year.

I am delighted that the City of Birmingham Symphony Orchestra has not yet had to make any staff redundant. In terms of adapting and innovating—as the Chancellor himself noted yesterday—it did a fantastic concert from a factory in Longbridge that has now been seen online 150,000 times. It was conducted by Simon Rattle and of course featured the world-famous cellist Sheku Kanneh-Mason. Yesterday, the City of Birmingham

[LORD VAIZEY OF DIDCOT]

Symphony Orchestra did a performance of Holst's "Planets" suite in Centenary Square—as happened in Parliament Square yesterday as well—but did only 20% of that performance, to highlight the fact that freelance musicians can secure only 20% of their income.

These organisations, like, we know, arts organisations all over the country, are being decimated. They need the help and support of government, but they also need a clear road map to get back to doing what they do best.

Birmingham is a vibrant, successful and prosperous city. It would have been even more prosperous if the Minister and I could have been there this week at the Tory party conference, which sadly had to be held virtually but would have introduced £16 million into the local economy. Can the Minister perhaps update us on the prospects for the Commonwealth Games in Birmingham in 2022 and the impact of lockdown on that? I know, for example, that the preparations for HS2, the West Midlands Metro extension and the Paradise office development are all going ahead, which is cause for optimism.

I echo the comments of noble Lords who spoke before me: we need more local decision-makers and visionary leaders involved in determining how to impose appropriate health regulations during the pandemic. We need to keep the schools open, we need to remove the curfew and we need to give Birmingham as much support as possible, particularly since Birmingham is helping itself where it can, not least by Aston Villa beating Liverpool 7-2 at the weekend.

3.15 pm

Baroness Crawley (Lab) [V]: My Lords, I am grateful to the Minister for her explanation of this SI. I want to make a couple of points.

The restrictions imposed by this statutory instrument can protect the people of Birmingham, Sandwell and Solihull only if the test and trace system that runs alongside it is reliable. Some 16,000 infectious people across the country being missed off the national test and trace dashboard, with their tens of thousands of contacts still to be traced, makes another huge dent in people's confidence in the system. I see that the restrictions imposed by this instrument have to be reviewed every two weeks and that the last review was on 29 September, as the noble Baroness, Lady Barker, said. That date falls in the week when those thousands of contacts were missed because of the Excel error. Is the Minister confident that the conclusions of that review of cases are accurate with hindsight? Given the ongoing problems with the centralised system of test and trace, does she see any merit in the calls by many local authority leaders, referred to by my noble friend Lord Hunt, for test and trace to be far more locally based? Is there enough testing capacity in the centre of Birmingham, given the closure, as I understand it, of the Edgbaston site in the summer? How does the Minister see Birmingham City Council's drop and collect testing service progressing? Does it have enough resources to complete this important initiative?

My second point is about communications. The message is obviously not getting through, despite the valiant efforts of strong local leadership in the West

Midlands. Birmingham people say they are baffled, as my noble friend Lord Rooker said, by the new restrictions and how they operate. The message that transmission within the home is dangerous, which I am sure is the message that the Government want to put out there, is not being heard. From the serious rise in cases in a city that I know well and represented for 15 years, it is easy to see how Birmingham's reaction to the Government's often mixed and muddled communications on restrictions is an echo of the compliance-weariness and lack of trust in authority that have set in across the country, especially among young people. It is my personal heresy that that lack of trust can be carbon-dated, certainly among young people, from a spring tour of the north by a certain Mr Dominic Cummings. However, we are where we are, as they say, and for this SI to work alongside the penalties regime attached to it, the Government's communication strategy must be crystal clear and reflect the rich diversity of modern Birmingham, modern Sandwell and modern Solihull, or things will be very much worse very soon. None of us wants that.

3.20 pm

Lord Bhatia (Non-Aff) [V]: My Lords, after seeing cases in the West Midlands continue to rise, the Government, in collaboration with local leaders, had to take the decision to ban households mixing in Birmingham, Sandwell and Solihull. It is difficult for any Government to take such drastic steps, but that is what any responsible Government have to do. Such regulations affect many businesses, particularly in the hospitality industry, where many restaurants and bars will suffer. The most affected are the employees, whose incomes are decimated. Their families suddenly become poor and some become homeless as they are unable to pay their rents. Local government has to find them temporary accommodation in hotels and private properties.

The domino effect of these new rules to save lives from Covid-19 will affect individuals, businesses and the finances of local government. There are no easy answers to this. Saving lives must take priority over economics. The only hope is finding a vaccine, which seems to be a few months away. In the meantime, the Chancellor has to provide extra funding for the unemployed, local authorities and small businesses. Can the Minister estimate what extra funding the Treasury will have to give to reduce the effect of these new rules?

3.21 pm

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, each time regulations of this type are scrutinised, it gives us a short opportunity to explore surrounding issues that catch the eye, even though local lockdown measures are now, regrettably, far from novel. Something that caught my eye today was in paragraph 7.3 of the Explanatory Memorandum, about data from the Joint Biosecurity Centre:

"The data also indicated that household transmission, either within the household or due to transmission between households, constituted a high proportion of COVID-19 transmissions".

Frankly, I find that a little unhelpful, since obviously someone is from either my household or another household. How is it known where the transmission

took place? Locking households down implies that it is within home-to-home visits, but is that known to be true? I heard what the Minister said, but how is that knowledge acquired, so that we know it was not somewhere else? I concur with the comments of my noble friend Lord Greaves.

The director of public health for Birmingham has given what is perhaps a theoretical explanation, which the House of Lords Library quoted in its useful briefing. He says that in pubs, restaurants and elsewhere, there is social distancing, sanitising, cleaning and risk assessments that are not done in the more relaxed environment of the home. Even with that explanation, I still consider that the degree of lockdown on households and highly restricted definitions for linked homes—particularly for childcare, as I have raised before—are too strict when set alongside other freedoms outside the home. It cannot be right that the only way to get stand-in help with children might be to go down the pub.

However, building on the point about risk assessment and controls in venues such as pubs and restaurants, it seems that the curfew has created more problems than it solves, especially in city centres when everyone leaves at once in a crowd. What risk assessments have been done about that? What about all the other pubs and restaurants that are far from thronged? The curfew also flies in the face of the basic premise for household lockdowns, because those other venues are safer, sanitised and socially distanced. Additionally, publicans tend to be careful of their licences. They do not need crippling fines, on top of shutdown costs and Covid safety measures, to make them behave responsibly.

On another matter, in the *Sunday Times* and since, there have been quotes about infection rates in different parts of the country, with it being pointed out that the seats of top Tories seemed to have avoided lockdown, despite having infection levels higher than those in other areas in lockdown. Setting aside political suspicions, I can probably think of other variables that sometimes might be at play: wealthier places might have lower housing density and less crowding—the kinds of things that the local authority might know well and feed in. Whether or not there are excuses, it is disturbing that there is now a new kind of discrimination, hitting hardest at areas where people are least able to withstand the hardships of lockdown and where the fines are so grossly disproportionate to income. I am not against the Government trying out containment measures, but there must not be discrimination, and greater attempts should be made at gaining public consent—it has gone best when that has happened.

Finally, Birmingham, like Pendle, as my noble friend Lord Greaves has reminded us on previous occasions, aimed to get a handle on infections through mass testing, regardless of symptoms. I congratulate it on that, which, regrettably, is more than I can say for national testing. As has been said from the start, mass testing is the way forward, so when are the cheap 15-minute tests that are available in the US coming to the UK? Other countries are ordering them in.

3.26 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I declare my position as a vice-president of the Local Government Association. This debate covers a

particular set of rules in Birmingham, Sandwell and Solihull. What I am about to say is guided by what Green Party councillors in the area have shared with me about what their constituents have told them and about the problems raised with them.

Perhaps the biggest difficulty is communication. Many people, for entirely comprehensible reasons, do not understand the reasons for the restrictions or why it is okay for people to go to another household to work but not for social reasons. This lack of understanding often leads to a lack of compliance, either intentionally or unintentionally.

I understand that there is evidence of a real risk of greater transmission within households than in public venues, where people tend to be more careful and businesses have an interest in providing a Covid-secure environment, but that is not being carefully and soberly explained. Understandably, if people feel that something is senseless, they either give up or descend into confusion, trying to do the right thing but without understanding what that is or why. The gaping chasm of government communications failure is being filled by often dangerous misinformation. What is lacking is calm, realistic, sensible, evidenced communication through national channels—not boosterism but balance.

There are also clear and obvious inequality issues that the Government need to acknowledge and seek to mitigate. People who can afford to go to a restaurant or café will be able to continue to meet family and friends, whereas those on lower incomes might be unable to do so. There is some hope of libraries being a resource for this purpose, but that obviously potentially clashes with other uses requiring quiet and is a very limited resource. What consideration have the Government given to providing resources to councils? Given the already extreme pressures on them from so many different directions, they will need extra resources to provide free, managed spaces in which groups of people can meet. Do the Government still have a loneliness tsar? Have they been consulted and involved?

There have also been significant difficulties with informal childcare arrangements. The initial guidance did not allow for friends and family members to look after children; only registered childminders were still allowed to do so, and that caused working parents a great deal of stress and worry. I asked the noble Lord, Lord Bethell, about this at the time, and I thank him for writing to me after the guidelines had been changed to allow this, but this is the sort of thing that should and could have been sorted out from the start, before anything was announced or done.

Communication is not the only problem—constant changes to the rules and guidelines also clearly are. Many noble Lords feel as though we are becoming a recording but, if we had proper procedures for introducing rules and debating them, and we were able to consider and examine them, we could set up a stable national framework, as my noble friend Lady Jones of Moulsecoomb said in an earlier debate today.

Another concern from residents has been that, for those at higher risk and previously shielding, their garden provides a more easily controlled and potentially safer environment for them to meet family and friends,

[BARONESS BENNETT OF MANOR CASTLE] compared to public spaces. The rules on gardens do not make much sense—although of course many do not have that option.

Informal communications from police officers indicate that these rules are almost impossible to enforce in any meaningful way. The problem we keep coming back to is that laws, guidance and suggestions from the Government, sometimes seemingly thrown out at random, have all been mixed up—“informing on the neighbours” is a particular problem.

New Zealand introduced a four-level alert system on 21 March. Obviously, I am looking from a great distance, and there have been mistakes in that nation’s management of Covid-19, which were quickly acknowledged and fixed, but there has also been clear public understanding of the arrangements, the reasons for them and a very high level of compliance.

As the noble Baroness, Lady Barker, said, the Government must get on the front foot against the virus. Part of that must be a clear framework, laws that apply chiefly to businesses and institutions, well-evidenced and well-explained guidance for individual and group behaviour, and a systematic approach and framework that is flexibly exercised according to local circumstances. Local decision-making must be key, but we need sensible guidance from the centre.

3.31 pm

Lord Campbell-Savours (Lab) [V]: My Lords, these regulations relate to the associated departmental document entitled *West Midlands: Local Restrictions*, published on 11 September. Under the heading

“Schools and colleges (face coverings)”,

it sets out face covering requirements in educational establishments in the West Midlands. This requirement, limited to educational establishments, does not go far enough.

I have been arguing in this House for widespread masking since 11 March this year. While I greatly welcome the Statement from the noble Lord, Lord Bethell—who unfortunately has not been in his place today—who in his sincere and ever-courteous way provided assurances on further consideration of mask valving, which I shall return to in the coming weeks, he has not yet been able on behalf of the Government to concede the broader case for mask wearing in the wider environment. I know he is under pressure from all sides to be careful in making concessions, but the Government have embarked on a fundamentally flawed approach. The general policy on limited mask wearing should be completely reviewed. Until then, I shall remain the House bore on the subject.

Let us go back to basics. Why wear a mask? The case for the mask is to protect ourselves and others. There is a mass of debating material and data on the internet worldwide, both supportive and challenging, and I have read a lot of it. In summary, the case turns on the primary issues of the efficacy of mask wearing—in other words, whether they work—mask design and the issue of valves, cost and supply, the perceived benefits and experience of people in South Korea, Taiwan and other areas of the Far East, and the effect of the precautionary principle on personal conduct. I shall concentrate on this latter issue today.

If you walk down a street and everyone is masking, you tend to believe you are part of a collective effort, breeding confidence and security. The mask not only acts to reassure you that a collective effort is in place but, more importantly, concentrates the individual mind on the reasons behind the collective action. It alerts you almost subliminally to the possible dangers of contamination and spread. The mask is a constant reminder. The value is in the collective response; it fosters a herd instinct in favour of precautionary actions.

I feel that officials have failed to grasp that. Admittedly, early on they had valid concerns over supply and priority usage. I understand all that, but those are the considerations of the past. Furthermore, we need to consider the American experience. Trump is perversely making my case. Once he himself had contracted the virus, he soon cast aside his distorted concepts of liberty and freedom, unleashing a national discussion over mask wearing. Sanity is taking over. We now have a genuine debate on masks state-wide, with the voice of reason no longer subject to national ridicule.

I appeal to Ministers to reopen within the department the whole discussion on mandatory mask wearing, with appropriate exemptions. I know that there are issues of individual freedom, which many Conservatives hold very dear to their hearts. I listened to the very interesting speech from the noble Lord, Lord Lamont of Lerwick, yesterday, which indicated that concern. However, this winter we will pay a heavy price if the wrong decisions are taken, and I believe it is vital now that we take a crucial decision on mandatory mask wearing in a far wider environment.

3.36 pm

Lord Mann (Non-Aff): My Lords, we have already heard reference to the good example of New Zealand, where in the forthcoming weeks the Bledisloe Cup between the All Blacks and Australia will be played out in Wellington. Tickets are on sale and a large crowd will be in attendance. New Zealand, the country which has been given many plaudits, has been perhaps the most efficient and effective at dealing with coronavirus.

The city of Birmingham’s partner cities in Germany are Frankfurt and Leipzig. Leipzig was the first Bundesliga team to take part in the German experimentation of crowds going to football matches in a safe, Covid-insured environment, and it has been doing so for around two months. The limitation is 20%. That means that in Frankfurt there will be slightly higher attendance than in Leipzig, while in Dortmund, the largest stadium in Germany, at 20% they are getting crowds of over 10,000, 11,000 or 12,000. We can view it on our televisions if we wish. I have done that to watch how the crowd is operating, and they are doing so with efficiency. The statistics are also there.

The statistics are also there in Hungary. Since July, crowds at outdoor football matches have been allowed, at a much higher density than in Germany, and Ferencvárosi, its leading team, has played repeatedly and successfully in the Champions League, with major matches coming up in the near future. The Hungarian Government have been confident enough to allow even away supporters to attend such matches.

We have major teams in the city of Birmingham; Aston Villa is having its most successful period for many decades. Some might say that they have benefited from the adherence to the two-metre rule by the Liverpool defence—which has also spread across the north-west of Manchester. One should commend those defenders for their approach.

However, I put it to the Minister that the morale to get us through to next summer in the city of Birmingham, like other parts of the country, would be greatly and safely enhanced if for outdoor sports there were consistency in who goes—that is, not with away supporters—defined bubbles within the crowd, which is what is happening in Germany, and the ability to use the contact tracing app should there be an outbreak. That would be a morale boost in every sense: a mental health boost well beyond those who managed to get in and be in attendance. We could and should have experimented this summer at Edgbaston in Birmingham, with a five-day test match with a well-defined plan within the outdoors to allow people to attend over the five days. I put it to the Minister that that could and would have been safely executed.

Frankly, my experience of going into town and city centres is that the organisation would happen in outdoor sports arenas such as Villa Park, St Andrew's, Edgbaston and the Hawthorns, in the area covered by this government proposal. I do not demur from the Government's approach in bringing this in, but flexibility in terms of outdoor venues will be essential. We should not hold back from emulating what New Zealand, Germany and Hungary have successfully done, particularly with the twin towns of Frankfurt and Leipzig as exemplars. If they can do it, we can—and safely. We will be also able to use their evaluation of their results to see how safe this will remain in future.

3.41 pm

Baroness Burt of Solihull (LD): My Lords, this has been a very fascinating debate that has been very educational for me, with perceptive comments from colleagues from all sides of the House. I address this issue from the perspective of someone living in the West Midlands—in Solihull, to be precise—just like the confirmed Brummies, the noble Lords, Lord Rooker and Lord Hunt, who are from that region.

Like many people in Solihull, Sandwell and Birmingham, I greatly miss being able to visit my mum, my daughter, my grandchildren and my friends in their or my home. The noble Baroness, Lady Bennett, made a very good point: I can see my family outside, but there are many families in that area who do not have the ability to do so because of the financial cost, and they are suffering.

However, it is what it is. Some of the themes that we have covered today have really struck me, such as the inconsistencies between Covid rates and lockdown. The noble Lords, Lord Rooker and Lord Vaizey, and my noble friends Lord Greaves and Lady Bowles have all raised that issue, and I am sure the Minister will enlighten us as to the logic behind some of these issues. Another theme was the question of why local leaders cannot be involved in lockdown decisions.

That is really important when local knowledge is so vital in this area. The noble Lords, Lord Hunt and Lord Vaizey—the latter gave us a lot of information about the cultural virtuosity of Birmingham, which was very welcome—talked about that.

The noble Baroness, Lady Crawley, talked about the effectiveness of test and trace and about locally based communications. Why is it that people get confused over what the actual lockdown rules are? Communication of information to our own people locally is vital and is better managed from the local area rather than centrally.

Local businesses have of course been impacted, and the noble Lord, Lord Bhatia, made a plea to understand how a lot of businesses, particularly in the Birmingham area, are all going to be saved in this situation. The noble Lord, Lord Campbell-Savours, made the case for masks and promised us that he is going to become the House bore until we all wear them. Well, the noble Lord is welcome to bore us to death; I think that that is a really good idea.

The noble Lord, Lord Mann, talked about football and crowds, what can be achieved when things are properly managed, and helping us with our morale, which is so important—not necessarily on my part though, when Aston Villa play Liverpool, but I am not going to go into that painful moment.

Earlier on today, I came in on a Question from the noble Lord, Lord Rooker, about the cost to the taxpayer of implementing food hygiene ratings in food premises. Here is a way to obviate those costs: empower inspectors to conduct dual inspections. While they are doing food hygiene inspections—and the Minister looked very positive at the idea of making food inspections mandatory—why not do a Covid compliance inspection at the same time? Given some of the hostelries I visited in my area, right now I would be more interested to know what their Covid rating was, rather than food hygiene, before I actually venture through their doors.

Finally, while I accept the logic of additional restrictions in particularly afflicted areas, I would like to make a plea on behalf of all families with small children. We have heard from several noble Lords today how much families are suffering. As there is no evidence that small children can spread the virus, could they not be exempt from the rule of six? Certainly, that would bring greater harmony between all the nations of the United Kingdom and bring greater happiness to families in England.

3.47 pm

Baroness Thornton (Lab): My Lords, the Minister will be pleased to know that I am not going to speak for very long, partly because on this side we seem to have the Birmingham experts in the House. My noble friends Lord Rooker, Lord Hunt and Lady Crawley are all from the Birmingham area. My noble friend Lady Crawley did not say so but, of course, she was a Member of the European Parliament for the Birmingham area for many years. I think they have raised many of the pertinent questions that the Minister will have to address.

[BARONESS THORNTON]

First, I think the Minister herself mentioned that 8 October—tomorrow—was the review of this statutory instrument, and I thought, why are we not talking about the review? Would that not be relevant? Would it not be more relevant for us to have a discussion about the review of this statutory instrument and what happens in the future, rather than the arid process we are going through, yet again, of discussing a statutory instrument which was put in place weeks ago and has been there for several weeks? It is now about to be reviewed, and we will not know what that review is, unless we go on the Government's website at some point and have a look to see what it says. That is my very first question: would it not be more relevant, now that we have all these restrictions in place around the country, and make more sense for us to discuss the reviews of those, rather than looking backwards all the time? I also think it is a relevant question for the West Midlands for us to learn about the other forebears, as my noble friend Lord Hunt raised.

I also echo the issue that my noble friend Lord Hunt raised, of the Minister yesterday—in the discussion on the Statement—talking about the relationship between local government leaders and the Government in terms of restrictions and local lockdowns. I was actually about to quote the *Hansard* that my noble friend Lord Hunt quoted. I was very struck and did not think it was a respectful way to address the issue of the relationship with local leaders; I thought it was patronising. I know that the Minister actually said in his closing remarks that he may have struck the wrong tone—well, he did strike the wrong tone.

These leaders—the four who wrote the letter to the Secretary of State yesterday and the leader of Birmingham Council—deserve respect and support. These are the people who know their communities; they, along with their public health leads, should be given the resources to help run local testing and tracing, which we advocated when we put through the emergency legislation in March. That is not to say that there is no need for mass testing, but it needs to be given equal priority with the local drive, and that is not what has happened.

As other noble Lords said, the communication links between local areas, the public health authorities and the Government have not always worked. I think Birmingham is a good example of where there have been tireless efforts, certainly by the authorities there, to make sure that this works and they are doing their best. We know that it is still not working, as it is not in other parts of the country, but we know that it is not as bad as in other parts of the country, and we need to understand why.

I want to add a couple of other questions. How much enforcement has been necessary? As I always ask when we are discussing these regulations, how many fines have been administered, and for what? Finally, echoing what other noble Lords have said, cities such as Birmingham and the others involved in this have some of our poorest communities and our most overcrowded communities in them. It is important that resources are made available to those communities to make sure that they can help fight this virus.

3.53 pm

Baroness Penn (Con): My Lords, I am grateful to noble Lords for their contributions to the debate, and I would like to get straight to addressing the points raised.

The noble Lord, Lord Rooker, and the noble Baroness, Lady Barker, asked about the surrounding areas in the West Midlands and whether we were looking at those, too. They get reviewed because there is travel between them. Wolverhampton was added to the protected area of these regulations on 22 September, so we will continue to look at local transmission rates.

The noble Baronesses, Lady Barker, Lady Crawley and Lady Burt, the noble Lord, Lord Rooker, and many others asked what lessons we have learned from previous lockdowns, what figures we used for the decision to go into lockdown and the path out of lockdown, and about inconsistency between different areas. I know this might be frustrating for noble Lords, but there is not a single figure for the decision to go into or come out of a local lockdown. There is not a single threshold, but the decision takes into account positivity rates, incidence rates, patterns of transmission and the rate of increase in those rates. There is not a single figure that informs that.

The Secretary of State keeps the necessity for these regulations under constant review; he is obliged to review it every 14 days, and I reassure the noble Baroness, Lady Barker, that the first review has taken place. That was at the end of September. The date of 8 October was for the second review, and these regulations will last for up to six months, unless they are revoked before then as a consequence of one of the fortnightly reviews by the Secretary of State.

The noble Baroness, Lady Crawley, asked about the impact of the missing test results on the outcome of the previous review. As the previous review was on whether to keep additional restrictions in Birmingham in place or revoke them, and rates in Birmingham have either remained similar or gone up a bit, additional test results would not impact the outcome of that review. I also point out that the Chief Medical Officer has said that, overall, the impact of those missing test results has not so far changed our analysis of the virus and our response to it.

Many noble Lords raised the question of local co-operation. It is right that we will be effective in these local lockdowns only if we work with local leaders and experts. As noted by the noble Baroness, Lady Thornton, that has been the case here. It is a good lesson for the future.

The noble Baroness, Lady Barker, also asked whether we have learned from previous local lockdowns. That is an ongoing process. The noble Baroness referred to the local lockdown in Leicester, and there is a published review of the impact of the measures there, *Rapid Stocktake of Lessons Learnt and Good Practice in the Management of Local Covid-19 Outbreaks*. That review has informed the contain framework, which I referred to in my opening remarks, which is used for decision-making on local restrictions.

Alongside local decision-making, the noble Lord, Lord Hunt, and the noble Baronesses, Lady Bennett, Lady Burt and Lady Thornton, raised the question of

local funding, drawing on local expertise and ensuring that expertise has access to funding to implement local action. That is absolutely right. It is why we have made £300 million available to local authorities for their local outbreak plans. In addition, £100 million of surge funding is available for local authorities to bid for, particularly if they are in a local lockdown area and may need to take further measures. That money is in addition to the £3.7 billion of un-ring-fenced funding for local authorities to deal with Covid pressures. Areas affected by the local lockdown in the West Midlands have received £142 million from the un-ring-fenced funding to local authorities. They have also received £3.3 million from the test and trace surge funding. I am afraid I do not have the figure for what they have received from the £300 million funding for initial test and trace. I do not want noble Lords to think the £3.3 million is the only funding they have received to respond to local outbreaks.

The noble Baronesses, Lady Barker and Lady Thornton, raised enforcement. Unfortunately for the noble Baroness, Lady Thornton, I cannot give the exact figures for enforcement in Birmingham. The collection of that data is ongoing. The guidance on fixed penalty notices is that enforcement officers should take an approach based on the four Es—engage, explain, encourage, then enforce. In the first instance, engaging and explaining, rather than using fixed penalty notices, might be the correct approach.

The noble Lord, Lord Greaves, and the noble Baroness, Lady Bowles, asked about household transmission. I reassure noble Lords that this is not the view just of central government, but of local government leaders and directors of public health. Local authorities and directors of public health have access to much more granular data than is publicly available and, rightly, sign data protection agreements in order to access it. There is consensus across the local area that this is the source of transmission in this case.

The noble Baronesses, Lady Bennett and Lady Burt, raised the impact of these restrictions on people, in their well-being and mental health. The Government take that seriously. The noble Baroness, Lady Bennett, asked about increased funding, which I have touched on. She also asked whether there is still a Minister for Loneliness. I can reassure her that the Minister for Loneliness is my noble friend Lady Barran at DCMS.

The noble Baroness, Lady Bennett, also made a point about how this legislation has been subsequently amended to make provision for informal childcare arrangements. That is an example of the Government listening to scrutiny and feedback in this House and from leaders in Birmingham, who made that case strongly, so action was taken.

I reassure my noble friend Lord Vaizey that the Commonwealth Games in Birmingham are on track and on budget for delivery in 2022. I completely agree with the noble Lord, Lord Mann, about the morale-boosting prospects of allowing spectators at outdoor sports. I know that DCMS takes this incredibly seriously and is working with sporting bodies to look at what we can do about it.

The noble Lord, Lord Campbell-Savours, asked about masks. I reassure him that I have listened to all his contributions on masks. He may be disappointed

that my noble friend the Minister is not here, but I will take his comments back to my noble friend and I am sure that he will take them as seriously as he has so far.

Several noble Lords raised the question of the 10 pm curfew. I know that noble Lords can be sceptical of the Government's view, so perhaps the view of the local director of public health in Birmingham may be salient here. He has said:

“When we visit a pub or restaurant or other Covid secure location, we are distanced, we sanitise regularly, places are clean and risk assessed and, in some locations”

we wear face coverings. But comparing that to the restrictions in homes, which the noble Baroness, Lady Burt, raised:

“When at home we are more relaxed, it is easy to not religiously adhere to those guidelines—we forget or are just unable to keep our distance”.

That is why we have taken the measures within households, not within pubs. The curfew is a measure that has been put in place in many other countries. It is in place in Madrid, Canada and the Netherlands. It is a measure by which we try to keep places open while reducing risky behaviour.

I conclude with a point raised by several noble Lords. The noble Baroness, Lady Bowles, talked about discrimination. The Government would strongly disagree with that but the noble Baroness, Lady Thornton, rightly said that local outbreaks can occur in areas that are more deprived and less resilient in dealing with them. That is not necessarily the case in the area covered by these restrictions. The reason the regulations cover Birmingham, Solihull and Sandwell is less because of a pattern of concentration, but that is a pattern we have seen elsewhere. It is something we take incredibly seriously. We have put huge amounts of resources into those areas, not just to contain those local outbreaks and use local expertise to do so but to provide support for people's well-being, mental health and livelihoods, as we have to take those actions. I commend the Motion.

Motion agreed.

4.03 pm

Sitting suspended.

Immigration Skills Charge (Amendment) Regulations 2020

Motion to Approve

4.15 pm

Moved by Baroness Williams of Trafford

That the draft Regulations laid before the House on 10 September be approved.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the immigration skills charge was introduced in April 2017. Its aim is to incentivise UK-based employers, including the UK branches and subsidiaries of overseas businesses, to take a long-term view of investment and training. It is designed to address the historic underinvestment in the training of domestic workers by UK employers.

[BARONESS WILLIAMS OF TRAFFORD]

The charge is currently paid by employers looking to sponsor a non-European Economic Area migrant for a tier 2 general or tier 2 intra-company transfer visa lasting more than six months. It also applies if the employers wish to extend the employment for a further limited period. The charge is paid up front when the employer assigns a certificate of sponsorship to a migrant worker, and automatically calculated based on the dates provided by the employer as part of the sponsorship process. It applies at a rate of £1,000 per migrant per year for large businesses, with a reduced fee of £364 for small businesses and charities. To date, the charge has raised approximately £382 million. While the income raised is not additional funding for skills, it is helping to maintain the Department for Education's existing skills budget and existing levels of investment in skills in England. Similarly, as education and skills are devolved matters, the income raised is helping to maintain funding levels for each of the devolved nations. It is distributed between England, Scotland, Wales and Northern Ireland using the formula devised by Lord Barnett.

Introduction of the charge was supported by the independent Migration Advisory Committee as part of its December 2015 review of the tier 2 immigration route. Subsequently, in its September 2018 report on the impact of EEA migration in the UK, the MAC continued to lend its support to this policy. Specifically, in relation to the abolition of the resident labour market test, which is not considered to be fulfilling its intended purpose of ensuring that employers look to recruit from overseas only where a suitable resident worker cannot fill the vacancy, the MAC stated that the immigration skills charge, alongside a system of salary thresholds, was the best way to protect against employers using migrant labour to undercut domestic workers.

The regulations are necessary to ensure continued application of the immigration skills charge under the new skilled worker route, which will replace the tier 2 general visa from January 2021 in the UK's future points-based immigration system. I have outlined the costs and can confirm that these regulations do not change the amounts charged for either large businesses or small and charitable organisations.

The regulations also do not change the position in respect of EU, EEA and Swiss nationals, who are currently exempt from the charge. Given the ending of freedom of movement between the UK and the EU, we intend to remove this exemption. However, this will require separate consequential amendments following Royal Assent of the Immigration and Social Security Co-ordination (EU Withdrawal) Bill.

As is currently the case, under the future immigration system there will continue to be exemptions from the charge, such as where the employer is seeking to recruit people into PhD-level occupations, where they are recruiting a person who is switching from the student route, or where the person is being recruited for less than six months. There are also exemptions for those within other sponsored routes such as tier 2 minister of religion visas and tier 2 sportsperson visas. These exemptions will continue to apply under the future immigration system.

The Government are making the biggest change to our immigration system in a generation and delivering on the will of the British people. These changes come at a time of global uncertainty as a result of the coronavirus pandemic, which has sadly resulted in lost and permanently changed lives. It has also resulted in many people across a wide range of sectors losing their jobs, at a time of wider economic uncertainty and instability. While it is right that the immigration system encourages those with the skills and talent that the UK needs to prosper, we must now, more than ever, continue to support our domestic workforce. The immigration skills charge is intended to do just that and ensure that employers contribute to our continued investment in developing the skills that the country needs. I commend these regulations to the House. I beg to move.

4.21 pm

Baroness Goudie (Lab) [V]: My Lords, the extension in these regulations of the charge to a wider range of skilled workers imposes an additional cost on charities and additional work for them. The voluntary sector at present is under great pressure, not only financially but in looking for really good global staff, along with businesses which recruit migrant workers who have skills that British workers do not. This is a thoroughly retrograde measure at a time when migrant workers are, more than ever, necessary to protect our economy and society from the economic consequences of the twin devils of Brexit and Covid.

4.22 pm

Lord Moynihan (Con): My Lords, I am grateful for the opportunity to focus on the issue of sportspeople. I want to ask the Minister a few questions, which I am sure she will be able to clarify for me.

First, the reference to the exemption of "sports players" and "sports coaches, instructors and officials" includes the numbers "3441" and "3442". I assume that that is for the Office for National Statistics coding system, and that the Home Office set out the requirements and the ONS categorised them. What is crucial overall is the UK points system, and the Home Office policy document about the new rules will formulate that. Indeed, there is reference in an explanatory note to the guidance being forthcoming, but at the moment we do not know what that guidance would be. Therefore, for sportspeople, it is difficult to have clarity on exactly what the regulations will require.

As I understand it, the requirement will be similar to the tier 2 regulations, which require that sports governing bodies decide on the very high standards required. For example, if you came in as the spouse of a researcher, you could take employment in virtually every area. But that is not the case in sport, because in sport you have to go back and satisfy the governing body of the sport that you met the very high standards required to take on employment under these regulations. Should that be the case, I ask whether it is wise to focus exclusively on the governing bodies of sports rather than the clubs, given that it is often the clubs that will be making employment offers to individuals. I hope that will be clarified in the guidance.

Take as an example the world of rowing. As I understand it, somebody like Sir Steve Redgrave might have the opportunity to apply to be performance director of British Rowing, and that as long as the sport's governing body stated that there was a non-UK applicant who would do the job better, that is sufficient to satisfy the Government under these regulations. However, if it was the Leander Club doing it, I cannot see the system that would apply for the individual who wished to be performance director—say, Steve Redgrave.

It would be very helpful to have a little more clarity on that. I hope my noble friend will say that this will all be clear in the guidance: if she does, I would be delighted, but on the other hand I would be concerned that the House had not had the opportunity to review the guidance, because the devil is sometimes in the detail.

There is a general point. I may be wrong in this, but it seems to me that the definition of “skilled worker” in the 2017 regulations is much tighter than the definition in these revised regulations. Whereas, for example, you have a skill level from RQF level 6 coming down to RQF level 3 under the original 2017 regulations, now the Secretary of State has the right to determine that the skills are “appropriate”. “Appropriate” is a very generic word and is not defined clearly. To give the Secretary of State such powers may well be appropriate, but it is exactly the sort of thing that I imagine the Delegated Powers Committee, on which I used to sit, will look at and say that to talk about “appropriate” skills is a wide delegated power, rather than being very clear in the definition of what the skills should be in any given circumstance.

Finally, the definition of a sports player includes a separate definition and exemption of the cost for “sports coaches, instructors and officials”, but the sports player's entourage if, for example, they are coming to Wimbledon and training in this country, goes much wider than sports coaches, instructors and officials. It could include sports physiologists, sports doctors or sports scientists that work with that sports player. I just wonder if there could be a catch-all definition for the sportsman or sportswoman's entourage to be covered in that context.

My final point is a comment that I hope will be helpful to the Home Office in future consideration of draft statutory instruments. A number was provided for us to seek answers to these questions, but when you phone the number, you need a name, and when you ask for the migration policy unit, which is in the guidance to us as Members of Parliament, sadly, you cannot get through to anybody, because they do not have the extension of the migration policy unit. You need the name of somebody there, and that name is not in the guidance. For future assistance to Members of the House of Lords and, indeed, of the House of Commons, it would be useful to have a name associated with the telephone number, or the telephone number of the unit. Either way, that may be useful on future occasions.

4.27 pm

Baroness Wheatcroft (Non-Affl) [V]: My Lords, it gives me enormous pleasure to follow the noble Lord, Lord Moynihan. We have been friends for a very long

time and I have always admired his energy and enthusiasm for his chosen causes, sport, of course, being the top one. I am not such an adherent of sport. I believe it is a cause for good and that it is important, but it is no more important than so many other things. I cannot quite understand why such an exemption should be made in favour of sport, when so many other needs are much greater, as far as immigration is concerned.

The noble Baroness, Lady Goudie, spoke about the particular need for carers. When one reads the list of people who will not be able to bring their skills to this country under the Immigration Rules, it is an extraordinary list. Carers are particularly singled out as ineligible to come in, yet carers are absolutely in demand and there is no evidence that our nationals are interested in training to take up that role. Even though the Minister explained that the purpose of these regulations is actually to raise money for training, she made clear that it does not directly find itself being put to use in that way. Where are we going to get the care assistants we need? One might also ask where we are going to get the pest control technicians that we will absolutely need and where we will find the lift technicians—these are not predominantly British at the moment, and I do not think sufficient numbers are being trained by companies to take up that role. I, for one, will be very wary of getting into a lift in the new year.

I think we are rushing into this, and making an exemption for sport seems to lack a little logic. We need to train up sportspeople in the country, most certainly, but do we not have the skills to do that here? We have winning teams and top-class players. Surely, if we are going to concentrate on breeding winners, that is what we need to do: make the most of what we have locally? If that argument applies to training care assistants, then, surely, it applies to sport.

4.30 pm

Lord Lucas (Con) [V]: My Lords, I congratulate the Government on continuing this series of regulations, and I encourage them to go further when they next have a chance. Among the people coming in and paying this charge, there are groups of people who have very similar skills and for whom £1,000 really is not a sufficient incentive to the employer to start investing in UK employees for the future.

I would like to see the Government having the power to look at who is coming in and paying this charge and, when they see a group of people with similar skills, to increase the level of the charge for those skills to £2,000, £5,000, £10,000 or whatever is required to start the companies concerned investing seriously in educating our own people. Otherwise, it is just a tax. I would like to see this used as a serious instrument of policy to reduce the number of people coming in with skills that we could easily reproduce in our own population if we took the trouble.

4.32 pm

Baroness Ritchie of Downpatrick (Non-Affl) [V]: My Lords, I thank the Minister for the explanation of the regulations. Like the noble Baronesses, Lady Goudie and Lady Wheatcroft, I have certain reservations and

[BARONESS RITCHIE OF DOWNPATRICK]

questions I would like to ask the Minister because all of this must be placed in the wider context. In the context of Brexit, immigration is emotionally charged and, in many ways, characterised much of the bitterness around the referendum and probably fuelled the majority for Brexit. I recall that from when I was a Member in the other place way back in 2016.

I am reminded of the debate on the principal Bill in Committee and on Report, and, in many ways, this piece of statutory regulation is a forerunner to that. We know what those particular issues are: the EU settlement scheme, the physical proof people are looking for and looked-after children. The other important area is that of carers, given the contribution of those from other countries who have been employed in the medical, nursing and caring sectors.

However, in relation to this specific piece of regulation, I will ask the Minister about some issues. For us in Northern Ireland, one issue related to the changes to business and sponsorship visas in relation to Northern Ireland might be the loss of some essential labour, and the move to using the UK visa system will be arduous, costly and a risk for a huge amount of Northern Ireland businesses, particularly at the time of this pandemic, when many of them are forced to do other things. Therefore, can the Minister offer any relief in relation to this or, possibly, investigate that?

Further to this, in relation to retaining this labour market, these businesses in Northern Ireland will also be in direct competition with those in the Republic of Ireland, since their employees can simply move half a mile, or half an hour, down the road and continue to work as an EU citizen, without having to meet all of these new requirements. I say to the Minister that this is a unique issue for Northern Ireland businesses, so I would appreciate it if the Minister could investigate it.

In the broader post-Brexit immigration system, the salary threshold will also have a disproportionate impact on Northern Ireland, as it is still capped at the same level across the UK without any consideration for differences in salaries and labour markets. There was some discussion earlier this year about the need for Northern Ireland to have its own salary threshold reflective of our labour market, but I understand that the Home Office is proceeding with a one-size-fits-all cap. Can the Minister offer any relief or comfort in this respect?

Many people from outside the UK through their employment in many situations, particularly in caring professions, have contributed to the enrichment of our society and economy throughout the UK. We do not wish to denigrate or erode that; we want to ensure that it is nurtured. Those people, who have offered us such good service, should still be facilitated.

I have asked several questions to which I would like the Minister to provide some answers. If she cannot do so in any detail today, I would be quite happy for her to write to me.

The Deputy Speaker (Baroness McIntosh of Hudnall) (Lab): The noble Baroness, Lady McIntosh of Pickering, has withdrawn from this debate, so I call the next speaker, the noble Lord, Lord Paddick.

4.36 pm

Lord Paddick (LD): My Lords, I thank the Minister for explaining these regulations, although I am not entirely clear about them. She said that they are about the immigration skills charge and underinvestment by business in skills training, but then said that the money paid does not go into skills training, which I found a little confusing. The charge applies at a rate of £1,000 per migrant per year for big businesses, with reduced amounts for small companies and charities.

I presume that the regulations are necessary to bring the existing immigration skills charge in line with the new points-based system to be introduced from 1 January. If I understood the Minister correctly, that EU migrants from 1 January will have to pay the immigration skills charge is being dealt with under separate legislation and not under these regulations.

I am also a little confused by the Explanatory Note, however brief, which says:

“Regulation 3 adds exemptions to the requirement to pay the charge.”

That is clergy, sports players, sports coaches, instructors and officials. My understanding was that these people were exempt already, so I do not understand what “adds exemptions” means if they were already included.

I have a lot of sympathy with the question asked by the noble Baroness, Lady Wheatcroft: why sport? I understand that the guidance available on Home Office websites may not be up to date, but for a sportsperson to be exempt, they need to be

“internationally established as a player or coach at the highest level.”

That indicates that the sort of people we are talking about will be those who earn a considerable amount of money. I understand that sport covers from grass roots up to international level, but these will be internationally established people on extremely high salaries, so why are they exempt? I understand that it might be argued that the sort of skills training that sportspeople get is not impacted, but surely, as she explained, this money goes into some central pot to assist with skills training generally. Can the Minister explain why internationally established players or coaches at the highest level are exempt from the immigration skills charge?

We have discussed only in the past week or so in the House the issue of immigration, the job market and the resident market test in terms of encouraging employers to employ UK workers rather than foreign workers, so I have some sympathy with the noble Lord, Lord Lucas. He asked whether £1,000 was really enough to encourage employers to employ UK staff rather than people who are migrants, particularly as the resident market test is being done away with.

I can understand clergy being exempt from the charge, because one does not normally expect clergy to be paid an extraordinary amount of money. It therefore does rather concern me that the guidance in relation to clergy states that, once you have been sponsored for three or six years, you cannot return to the UK under level 2 within the next 12 months unless “the salary for the job that the Certificate of Sponsorship Checking Service shows you are being sponsored to do (including any allowances listed as acceptable for this purpose in paragraph 79 of Appendix A to the Immigration Rules) is £159,600 or higher.”

I think—although I do not know—that it would be unusual for members of the clergy, who I understand include monks and nuns, to be paid this salary or higher, or that the sort of accommodation with which they are provided, which can be included, would run to that sort of cost. So, all in all, this is very confusing.

However, if these regulations do not add these other people as exemptions because they are already exempt, and if their purpose is simply to align with the new points-based system from 1 January, I am content.

4.43 pm

Lord Rosser (Lab) [V]: I too thank the Minister for her explanation of the content and purpose of this provision, which amends the Immigration Skills Charge Regulations 2017. The 2017 order set out the details for the payment of the immigration skills charge, which is levied on employers who sponsor a skilled migrant worker. This order amends the 2017 regulations by changing the definition of a skilled worker to whom the immigration skills charge applies to reflect the changes the Government are making to the Immigration Rules. At the moment, the definition of a skilled worker includes that they must have been the subject of a resident labour market test and have a certain level of qualification, namely level 4 and above of the Regulated Qualifications Framework.

The Government are scrapping the resident labour market test and reducing the qualifications needed to access the skilled worker route to include, as I understand it, the equivalent of A-levels—level 3 and above—of the Regulated Qualifications Framework. As the Minister said, both these changes were recommended by the Migration Advisory Committee. Thus the SI will redefine a skilled worker as someone who reaches a skills and a salary threshold, is sponsored by an employer and is applying on a route that permits stays of over two years, regardless of the length of stay of the particular individual. As has been said already, it also maintains the existing exemptions from the charge for sports people and ministers of religion.

Can the Minister say what impact the Government expect the changes made by this provision to have on the number of employers and the number of migrant workers accessing the skilled worker route after the end of the transition period, compared with the respective numbers who would have been expected had the changes in this provision not been made?

Can the Minister also say whether there is any limit on the number of migrant workers who can access the skilled worker route each year if they are sponsored by an employer and meet the qualification criteria? Is there any cap on the number? Can she indicate what overall increase in revenue from the immigration skills charge the Government expect as a result of the change in the definition of a skilled worker and the end of free movement?

The Minister has already told us how much has been raised by the immigration skills charge since it was introduced, but what percentage of the annual skills budget of the Department for Education does the income from the immigration skills charge represent? I await with interest the response of the Government to the concerns and questions of my noble friend

Lady Goudie, the noble Baronesses, Lady Wheatcroft and Lady Ritchie of Downpatrick, and the noble Lord, Lord Paddick, who all raised very interesting points.

While we are not opposed to these regulations, they represent another wasted opportunity to improve the immigration system and support our NHS, because they do not exempt NHS employers from paying this charge. Paragraph 12.3 of the Explanatory Memorandum says:

“An Impact Assessment has not been prepared for this instrument. The charge is classified as a tax and is therefore out of scope of the new Better Regulation Framework.”

The immigration skills charge is thus, the Government agree, a tax, paid by employers who recruited from overseas instead of from the domestic workforce, and is intended to act as a disincentive and to promote local recruitment. In the context of the NHS, however, it punishes trusts and indeed taxes them, as they have to fill clinical skills shortage gaps by recruiting badly needed skilled staff, including specialists from abroad, with the Government simply taking back through this tax much-needed money from a sorely stretched NHS—money the Government provided to the NHS in the first place on the basis that it was needed to provide front-line hospital services. They are taking this money back through a tax from a health service even more sorely stretched during Covid-19 and facing the certainty that in less than three months’ time, with the ending of free movement, an even greater proportion of skilled migrant staff will attract the skills tax.

A recent freedom of information request showed that the quarter of NHS trusts responding had in total paid over £15 million pounds through the charge, or tax, since 2017. Local NHS trusts requiring specialists from overseas are being penalised and taxed for a failure by the Government to implement a skills strategy that provides sufficient available home-grown skilled staff for the NHS. The Government were forced into a U-turn on their policy of charging health and care workers from overseas to use the NHS they work in and support through the immigration health surcharge. However, the Government continue to insist on their employer paying the immigration skills tax and continue to claw back funds from already stretched hospital budgets. It does not make sense, and these regulations are another lost opportunity to rectify an inexplicable policy that will be further expanded to cover those coming from EU countries in less than three months’ time. The deficiency in these regulations is not in what they say but in what they do not say.

4.48 pm

Baroness Williams of Trafford (Con): My Lords, I thank all noble Lords who have spoken in this debate, with quite varying views, on the immigration skills charge.

I shall come to the noble Lord, Lord Rosser, first. On the numbers affected and the limits on numbers, I know that there will be no cap and, although I do not have figures to hand for the numbers affected, I can certainly write to him if we have them. Clearly, that would be a retrospective view, because it is about to be brought in, but we will certainly have the numbers since 2017, when it was introduced. The noble Lord also asked me what percentage of the DfE budget the charge represents, but I do not have that figure either.

[BARONESS WILLIAMS OF TRAFFORD]

The noble Baronesses, Lady Wheatcroft and Lady Goudie, asked if this is a retrograde step. This charge has been in existence since 2017, and in what it does and does not do, the exemptions are nothing new, such as where employers are seeking to recruit people into PhD-level occupations, where someone is switching from the student route, and those under the ministers of religion and sportspersons tier 2 route. Those exemptions will continue to apply; they are not new under the future immigration system.

The definition is those who come under tier 2 and tier 5. The noble Lord, Lord Paddick, asked why they are necessary. It is to ensure continued application of the skills charge under the new skilled worker route. From what he was saying, I think that he is satisfied on that rationale. I think my noble friend Lord Moynihan asked what the definition of a sportsperson is. It is someone recognised by their sport's governing body as being at the highest level of their profession internationally. I understand that it does not apply to their entourage.

The noble Baronesses, Lady Wheatcroft and Lady Ritchie of Downpatrick, asked about the lack of exemption for health and care workers. As they will know, the Government are proactively supporting the health sector with a number of unprecedented initiatives, including introducing the new health and care visa. The income from the ISC is used to address skills and training gaps in the resident workforce, which includes the healthcare sector, but the noble Lord, Lord Paddick, is absolutely right to point out that it is funding those sectors not directly but indirectly. The rationale behind it

is that we provide resident workers with the opportunity to develop skills which will enable them to progress in their career. As I think I have already pointed out, it is raised and paid into the Consolidated Fund and distributed to the DfE and the devolved nations using the Barnett formula.

Those are the questions that I can answer today. If I have left anything out, I will write to noble Lords, but on that basis, I beg to move.

Motion agreed.

Prisoners (Disclosure of Information About Victims) Bill

Returned from the Commons

4.53 pm

The Bill was returned from the Commons with a reason. The Commons reason was ordered to be printed.

Private International Law (Implementation of Agreements) Bill [HL]

Returned from the Commons

4.53 pm

The Bill was returned from the Commons agreed to with amendments. It was ordered that the Commons amendments be printed.

House adjourned at 4.53 pm.

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