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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 SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Tuesday 11 January 2022

2.30 pm

Prayers—read by the Lord Bishop of Gloucester.

DWP: Support for Larger Families Question

2.36 pm

Asked by The Lord Bishop of Durham

To ask Her Majesty's Government what assessment they have made of the adequacy of support offered by the Department for Work and Pensions to larger families.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office and Department for Work and Pensions (Baroness Stedman-Scott) (Con):

No assessment has been made as every household has different requirements. While there is no objective way of deciding what an adequate level of support should be, the department will spend more than £110 billion this year—4.8% of GDP—on working-age benefits. Additionally, the Government offer a wide range of support to families with children depending on their circumstances, including free school meals, childcare, Healthy Start vouchers and the household support fund.

The Lord Bishop of Durham: I thank the Minister for her response. According to the benefit changes and large families research carried out by the Child Poverty Action Group with the Universities of York and Oxford and the LSE, the increase in child poverty since 2012-13 has been sharpest among families with three or more children at 47%, compared with 24% for families with one or two children. These families are deeply affected by the two-child limit. They have been severely affected by the £20 cut to universal credit last September and they are less able to increase their working hours due to childcare demands. What are the Government planning to do to address the levels of poverty among larger families while the cost of living is rising steeply?

Baroness Stedman-Scott (Con): The right reverend Prelate is always consistent in raising these important points. To start with, let me say that I quite understand, as do others, the issue of childcare. We must do what we can to try to improve opportunity and facility. The right reverend Prelate asked me what we plan to do. Let me say what we have done. We continue to take action to support living standards by increasing the national living wage and reducing the universal credit taper rate, which has more than compensated for the £20 uplift in UC. We also recognise that some people will need extra help this winter as the economy recovers, so we have made £500 million of funding available across the UK to help. Rather than read out a whole list of things that we have done, let me say that I am sure the Government are doing everything they can to help people in these circumstances.

Baroness Sherlock (Lab): My Lords, I am not so sure. The Government may not have made any assessment of the position of families, but let me give the Minister one assessment. The director of the IFS has said that the cost of living crisis we are facing right now could hit someone on average earnings harder than the financial crash of 2008. Taxes are rising, inflation is soaring and energy prices are going through the roof. Earnings and benefits simply cannot keep up. If the average worker is in trouble, what of larger families? The two-child limit caps what they get and they have already been hit by the £20 limit. They are in the position right now of having to decide whether to feed the meter or feed the kids. What are the Government going to do about that?

Baroness Stedman-Scott (Con): On the two-child policy, families can claim for up to two children and there may be further entitlement for other children if they were born before 6 April. There are also exceptions, but at the end of the day we are trying to make it possible for people who are working to make decisions about how many children they have over affordability. We have no intention of changing the Government's two-child policy.

Baroness Fookes (Con): My particular concern is with those vulnerable households who are unable to work at all and therefore cannot benefit from the welcome improved take-up. What is my noble friend doing to help that group?

Baroness Stedman-Scott (Con): We recognise that some people may require extra support over the winter as we enter the final stages of recovery. That is why vulnerable households across the country will now be able to access the new £500 million support fund to help them with essentials. We have provided £670 million in 2021-22 for local authorities to support these people. We are investing over £200 million per year in holiday activities. We are increasing healthy-start vouchers. We are establishing a 60-day breathing period and, as I have said before, without reading out a long shopping list, I will say that we are doing a lot to help people.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, the noble Lord, Lord Jones of Cheltenham, wishes to speak virtually, and I think this is a convenient point to call him.

Lord Jones of Cheltenham (LD) [V]: My Lords, every child deserves decent food, shelter and care, and an equal opportunity for good education and healthcare, whatever the size of their family. Leading environmentalists, including Sir David Attenborough, say that the world's greatest problem is an ever-increasing human population. Do the Government believe that vasectomies provide part of the answer and do they think that male sports stars, celebrities and politicians who have six, seven or eight children should have a vasectomy to set an example and help save the planet?

Baroness Stedman-Scott (Con): Now there is a question—a rather cutting one, if I may say so. It is very important that children have an equal opportunity

[BARONESS STEDMAN-SCOTT]
to healthcare, to education and to opportunities to thrive. I assure the noble Lord and the House that we are doing all that we can—but we know we need to do more.

Baroness McIntosh of Hudnall (Lab): The Minister made an uncharacteristically harsh observation in her response to my noble friend Lady Sherlock when she said that the Government had no intention of changing. She has had put to her a number of ways in which the world has changed since this policy was developed. Does she really think that it is appropriate for the Government to take such an intransigent view at this point?

Baroness Stedman-Scott (Con): I am sorry if my response was harsh. That would never be my intention in this Chamber. However, I believe in being absolutely truthful and I am reporting that the Government at the moment will continue with the two-child policy. But, as ever, if people have other ideas and things they want to talk about, the door is open.

Lord Bird (CB): My Lords, not supporting children in the early stages of their lives will cause a ricochet through the years. We should take into account that fact. I also have to say that my snip came too late as I have five children.

Baroness Stedman-Scott (Con): We do seem to be sharing today, do we not? The noble Lord's serious point is that unless we deal with things before they become a problem, we bank up problems for the future. That is why early intervention is critical, and why we are working with the Early Intervention Foundation on reducing parental conflicts so that young children can have a better start in life, and the family hubs network is coming in. However, I understand the noble Lord's point and it is well made.

Lord Farmer (Con): My Lords, the benefit cap level appears the same whether a couple or a single parent heads a household, yet two adults cost more than one. While there are more opportunities to avoid the cap by working if there are two adults, given strong evidence for the health and societal benefits of stable two-parent family structures, what measures are in place to ensure that the benefit cap does not create a couple penalty and discriminate against couple families and children?

Baroness Stedman-Scott (Con): My noble friend again makes a very good point. We understand that where children grow up with parents and healthy support, they do much better and they thrive. But the Government firmly believe that, where possible, it is in the best interests of children to be in working households, and the benefit cap provides a clear incentive to work. Household earnings of only £617 a month provide an exemption from the cap, and exemptions apply for the most vulnerable claimants who are receiving disability benefits or are entitled to carer benefits.

Baroness Bennett of Manor Castle (GP): Following on from the Minister's answer to the noble Lord, Lord Bird, in which she talked preventing problems, is she

aware of the report in *Community Care* last week on research by academics from Huddersfield and Liverpool which found that, between 2015 and 2020, benefit cuts meant that 10,000 more children had been taken into care and an additional 22,000 children were placed on child protection plans? This disproportionately affected poorer boroughs. In light of levelling up and the desire for prevention, will the Minister look at this report, and are the Government counting the actual cost of these policies in terms of children in care?

Baroness Stedman-Scott (Con): I will certainly look at the report if the noble Baroness will send it to me. We have a grave sense of concern about children going into care and child protection, and I can assure her that we are looking at early intervention. I am very happy to speak to the noble Baroness outside the Chamber.

Respiratory Viruses

Question

2.47 pm

Asked by **Baroness Ritchie of Downpatrick**

To ask Her Majesty's Government what assessment they have made of the risks posed by respiratory viruses this winter to (1) children, (2) young people, and (3) the elderly; and what further medical protection measures they will put in place to tackle (a) respiratory syncytial virus, and (b) influenza.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): Influenza remains a health threat, which is why the Government are offering flu vaccinations to more people this winter, including older people and, for the first time, all schoolchildren up to year 11. Reduced transmission of respiratory syncytial virus, or RSV, last winter led to a summer surge, particularly in child cases—there were few among elderly adults—which is now diminishing. Seasonal RSV preventive monoclonal antibodies for highly vulnerable children were authorised from June 2021.

Baroness Ritchie of Downpatrick (Lab): My Lords, measures taken to combat Covid-19 over the last year have resulted in the epidemiology of seasonal viruses being out of sync with usual patterns. Last year, Public Health England reported concerns about rising rates of RSV infections in infants following the Covid-19 lockdowns, and reduced immunity levels combined with an already stretched health service. Given the continued pressures on the NHS, can the Minister outline what evaluation the Government have made of the NHS's capacity to handle a potentially extended RSV season, and will they work with the devolved Administrations in that regard?

Lord Kamall (Con): There was an unseasonal surge in RSV activity during the summer of 2021, which peaked in late July at about 15.7% swab positivity and a hospital admission rate of 2.5%. But, following the summer surge, RSV activity declined and positivity

currently sits below seasonally expected levels. As a consequence, the RSV hospitalisation rate has declined since the summer surge.

Lord Clark of Windermere (Lab): My Lords, thankfully, influenza is low again this winter, largely on account of the most effective way to counter flu: hand washing, covering one's mouth and vaccination. The House will recognise that those are the identical solutions for fighting Covid. So I urge the Minister and his colleagues to keep hammering those three simple messages in their anti-Covid approach, because at the same time that will reduce many deaths by keeping flu down.

Lord Kamall (Con): The noble Lord makes a very important point that we should acknowledge. The fact is that the preventive messages against Covid are equally valid against influenza. Indeed, the reduction in social contact since the pandemic has led to a reduction in seasonal flu, as we would expect, compared with previous years. I take the noble Lord's point and will make sure that I repeat it when I can.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, the noble Baroness, Lady Brinton, wishes to speak virtually. We have her on screen. This is a convenient point to call her.

Baroness Brinton (LD) [V]: My Lords, government data show that more children have been admitted to hospital with Covid in the last three weeks than in the whole of the nine months of the first wave. Many clinically extremely vulnerable children are still expected to go to school, even though they still await their vaccines and guidance on how to manage the risks they face, including RSV and influenza. Can the Minister say when these children and their families will get the vaccines and guidance they need? If he cannot, will he please write to me with the answer?

Lord Kamall (Con): The Government have put in place a range of measures to protect children from RSV this winter, including expanding the passive immunisation programme for all at-risk infants, ensuring that the NHS has surge plans in place to respond to any increasing cases, raising awareness among parents and at schools of the symptoms of RSV and when to seek medical help, and increasing our out-of-season surveillance capacity.

Baroness Altmann (Con): My Lords, given that the elderly are more susceptible to respiratory viruses in the cold, and given the number of excess winter deaths we have already seen in recent years, the reduction in the earnings link for the triple lock and the lack of availability of any increase in the cold weather support for older people, will my noble friend consider whether the Government might introduce any emergency measures to help pensioners keep warm through the winter?

Lord Kamall (Con): My noble friend makes a very important point that during the winter people quite often need some help and assistance with winter fuel and other issues. For RSV and influenza, this winter

we have had the continued offer of vaccination for 50 to 64 year-olds for the first time, and to additional cohorts. By 19 December, 82% of people aged 65 years and over and 48% of people under 65 years in risk groups had received a flu vaccine.

Baroness Thornton (Lab): My Lords, in July last year my right honourable friend Jonathan Ashworth anticipated the risk of co-infection with both viruses—popularly known as “flurona”—being likely to compound the impact of Covid. He asked then whether the Prime Minister would invest now in testing capacity so that, alongside a Covid test, it would be possible to test for flu and RSV. Is there a plan to take up multipathogen testing for the future—it is obviously too late for this winter—as we learn to live with Covid?

Lord Kamall (Con): There are a number of innovations when it comes to vaccines and testing for vaccines. Indeed, some of the companies and organisations we spoke to recently about future testing requirements, for example, have looked at multiple tests or tests where you can identify multiple conditions. It is one of the things that the department and the NHS are continuing to have conversations on with suppliers.

Lord Naseby (Con): I congratulate my noble friend on the success of the flu jab and the way it has worked this year through general practice. In passing, I also reflect on the pre-testing of children going back to school and having a test just before school. There remains a concern, though, about the elderly who are housebound. There was a problem with ensuring extra Covid jabs for that category. Will my noble friend ensure that general practices check on a regular basis where appropriate that there are such jabs as are necessary for the housebound who are eligible?

Lord Kamall (Con): I thank my noble friend for congratulating me, but I should not take any credit for this; it is thanks to the dedication of all the people who work in our health and social care system, and the innovation we have seen in the public and private sectors over many years to tackle many of these conditions. I will look into access for elderly people at home and commit to write to my noble friend.

Lord Mackenzie of Framwellgate (Non-Aff): My Lords, at the outset of this pandemic, the emphasis appeared to be on hands and touching for transmission of Covid. This appears to have changed to contamination by airborne particles and wearing masks, which makes more sense for a respiratory virus. Can the Minister tell your Lordships' House whether this analysis is correct and publish the evidence showing the efficacy of face coverings?

Lord Kamall (Con): As the noble Lord will know, there has been a debate on the efficacy of face coverings. The Government believe that they do contribute, along with a number of other measures. One of the things we have to be careful of, when we talk about one measure, is not to diminish the importance of other measures. As a noble Lord who spoke earlier said, all

[LORD KAMALL]
these measures are important—washing hands, opening windows and making sure you are socially distanced—as well as wearing masks. Rather than isolating one preventive measure, we think they all contribute together.

Lord Pickles (Con): My Lords, can my noble friend tell the House what progress has been made on the provision for the visually impaired of lateral flow tests capable of being used without the help of a third party?

Lord Kamall (Con): I thank my noble friend for that question. I am not aware of the answer, and I will commit to writing to him.

Lord Patel (CB): My Lords, there is good evidence through a randomised trial of 300,000 people that shows the efficacy of mask wearing, but that is not my question. We should be pleased that RSV infections in children are lower this year—I am sorry, I should have taken my mask off; surgeons are used to speaking with masks on. We should be pleased that RSV infections and bronchiolitis in children are significantly lower this year, but there are lessons to be learned both for epidemiological studies and for research. Are the Government or the Department of Health engaging in that?

Lord Kamall (Con): I thank the noble Lord for removing his face mask; I know it is supposed to be a preventive measure, but it prevented me hearing his question. We are following the epidemiological picture for RSV and are regularly updated, both in the NHS and in the department.

Net-zero Test for New Policies *Question*

2.57 pm

Asked by **Baroness Hayman**

To ask Her Majesty's Government what assessment they have made of the letter from the Confederation of British Industry, Trades Union Congress and others, to the Prime Minister on 3 December 2021; and in particular the recommendation to establish "a new overarching Net Zero Test for new policies".

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the Government are ensuring that decision-making across government is aligned to deliver net zero. This includes establishing two Cabinet committees to co-ordinate action across government and strengthening official-level governance. The *Net Zero Strategy* includes a commitment to:

"Ensure that decisions taken on government spending are informed by their impact on meeting net zero."

The Government have also committed to publishing "an annual progress update against a set of key indicators for achieving our climate goals."

Baroness Hayman (CB): My Lords, I declare my interests as set out in the register. I am grateful to the Minister for that Answer, but it is very similar to the Answer he gave me some months ago when I asked about the recommendation that the Climate Change Committee made to Parliament that there should be a net-zero test on all government policies. Last month that recommendation was endorsed in a letter to the Prime Minister by the CBI, the TUC, UK corporate leaders' groups and others. They see the benefits of a comprehensive approach not only in achieving our net-zero targets but in providing a coherent and transparent framework from government for the efforts of business and industry to fuel the green growth we so badly need. Will the Government now accept the advice they have been given so broadly?

Lord Callanan (Con): I thank the noble Baroness, but the reason my Answer was very similar to a few months ago was that the Question was very similar to the one she asked me a few months ago. We have taken new approaches to embed net zero in spending decisions, including requiring departments to include the greenhouse gas emissions of their spending review bids and their impact on meeting carbon budgets and net zero. There is a huge amount of co-ordination taking place across government and between this Government and the devolved Administrations in helping us to meet our goals.

Lord Oates (LD): Does the Minister agree with the same letter where it says that we must

"ensure the competitiveness of UK businesses is not disadvantaged by imports that do not have the same carbon costs"?

If so, why is it that the only thing the Treasury's *Net Zero Review* has to say in the way of action on carbon leakage is that

"a case for conducting a formal call for evidence may emerge."

Is that not a woefully complacent approach which puts at risk British industry and British jobs?

Lord Callanan (Con): I agree with the noble Lord that the competitiveness of UK industry is extremely important. The question he is asking is effectively about the carbon border adjustment mechanism which the EU and others are considering. I am sure that the noble Lord would be the first to accept that this is a complicated and difficult policy area. It cuts across various WTO and international trade commitments. I can see in principle the case for what he is saying, but it is a complicated area.

Lord Foulkes of Cumnock (Lab Co-op): Does the Minister agree that new nuclear has an important part to play in achieving our net-zero targets? Will he indicate what the UK Government are doing in relation to that in England, and will he arrange to meet with Scottish Ministers to try to persuade them of the importance of new nuclear?

Lord Callanan (Con): I agree completely with the noble Lord for a change. He is quite right to make the case for new nuclear. Indeed, the other place passed the nuclear Bill just yesterday, so it will be coming to this House shortly; I look forward to debating it

alongside the noble Lord. I already meet with Scottish Ministers, although I fear that my efforts to persuade them of anything are very much in vain.

Lord Browne of Ladyton (Lab): My Lords, I take the Minister back to his own reference to the key commitment that the Government made under the heading of “Embedding Net Zero in Government” in the *Net Zero Strategy*; the commitment that he referred to was to publish an update of progress against a “set of ... indicators” for achieving our climate change goals on an annual basis. What progress is being made in taking forward this commitment, and what scrutiny will there be of the agreed indicators?

Lord Callanan (Con): We are indeed committed to publishing this, exactly as I said, and we are making a considerable commitment towards meeting our targets. We have the most ambitious programme of emissions reductions in the whole of the G7. Let me give an example of how difficult these areas are. It is easy to say that, yes, we must embed net zero in all our policies, but the other place is currently having a debate brought forward by the noble Lord’s party on removing VAT from domestic fuel. Everybody can see why that might be important at the moment but, arguably, such a test would fail the commitment on net zero, since most fuel is still produced by carbon-intensive methods. These are difficult policy areas; we have to balance the overarching aim of net zero with other commitments on fuel poverty, et cetera.

Baroness Jones of Moulsecoomb (GP): Anyone watching the Government can see that there is no coherence and that they do not understand net zero. That is why it is so important to take up this idea. Any Government who understood net zero would not have made a deal with the Australian Government for lamb and similar things. That is not a net-zero deal. At the same time, they are condemning British farming to sometimes going out of business. Does the Minister agree that the Government have to step up a bit and be a little more ambitious on net zero?

Lord Callanan (Con): I understand the point that the noble Baroness is making—I know that she is very passionate on this subject, and we have debated it many times—but we have the most ambitious net-zero goals of all of the G7. The noble Baroness puts her head in her hands, but that is true. Of course, you could always argue that we should go further or faster, but that would be expensive and would affect our competitiveness. At the end of the day, the UK is responsible for 1% of worldwide emissions. We need to make sure that we go forward in a co-ordinated manner with other countries across the world and approach this problem together.

Lord Geddes (Con): My Lords, before Christmas, I fed my noble friend the Minister what he took as a helpful line. I will try to do it again: where are we with tidal power?

Lord Callanan (Con): The answer I gave my noble friend then was that tidal power is included in the latest contracts for difference round; I think the figure

is £20 million that we propose to expend on it. My noble friend makes a good point that there are some very feasible tidal power projects, but we need to be realistic—tidal power will not contribute more than a small percentage of our power needs.

Baroness Blackstone (Ind Lab): My Lords, does the Minister agree that the current levels of spending on climate-positive measures are far below what the Climate Change Committee has recommended to achieve net zero? If so, what plans do the Government have to increase expenditure so that we have a greater chance of achieving their net-zero target?

Lord Callanan (Con): The noble Baroness makes an important point but it is not just government spending that contributes to net zero. Regulatory policies also have an impact. We are spending considerable sums; certainly, within my department we could always do with spending more, but the difficult job that the Treasury and Chancellor have is balancing tax income with net expenditure. Many government departments would, I am sure, prefer to be spending more money at the moment.

Baroness Sheehan (LD): My Lords, just before Christmas, the Government launched a consultation with oil and gas companies on the design of the UK policy for the sector. Can the Minister say, first, whether the consultation will be carried out in accordance with the consensus between scientists and the International Energy Agency that new oil and gas production is incompatible with net zero by 2050? Secondly, how are the Government proposing to give voice to other stakeholders?

Lord Callanan (Con): The noble Baroness and I have also debated this topic at length before. The point she needs to recognise is that, during the transition, there is still a requirement for oil and gas products in the United Kingdom. Liberal Democrats might not like that but it is a fact—unless you are going to stop people driving their cars and turn their gas boilers off tomorrow, and I do not see that being produced on a focus leaflet any time soon. We need to transition to net zero. During a transition period, therefore, the choice is: do we use oil and gas products we generate, creating jobs and paying taxes from UK assets, or do we get them from Russia or Saudi Arabia? I know what I would prefer.

Lord Grantchester (Lab): My Lords, of the gaps identified by this letter still needing to be filled in the urgency of the climate challenge in the Glasgow climate pact, perhaps the one identified on adaptation and resilience has received least attention. Little progress is being made. What increases in adaptation policy ambition have the Government determined are needed from the reports of the adaptation sub-committee of the Climate Change Committee?

Lord Callanan (Con): I have not seen the particular report that the noble Lord refers to but I shall certainly have a look at it, take it back to the department and write to him on that subject.

Lord Patel (CB): My Lords, in respect of developing strategies for nature-based solutions, what advice are the Government developing to help farmers meet their responsibilities?

Lord Callanan (Con): The noble Lord makes a good point. Emissions from agriculture and farm animals, et cetera, are a considerable component. These matters are of course addressed in the Environment Act, and there is no question that we are taking a whole-economy approach. Every sector needs to do its bit; food and farming production certainly need also to do their bit towards net zero.

Kazakhstan *Question*

3.07 pm

Asked by Lord Sheikh

To ask Her Majesty's Government what assessment they have made of the current situation in Kazakhstan.

Lord Sheikh (Con): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. I declare that I am a vice-chair of the APPG for Kazakhstan.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, the United Kingdom is deeply concerned by and condemns the violence and destruction of property in Kazakhstan during the past week, particularly in the city of Almaty. We greatly regret the loss of life and send condolences to the families of all the deceased. I spoke directly with the Kazakh ambassador to the United Kingdom on 6 January and then with Deputy Foreign Minister Alimbayev on 7 January. As the situation stabilises, we will continue to engage directly with our Kazakh counterparts to gain insights into the chain of events.

Lord Sheikh (Con): My Lords, I thank my noble friend the Minister for his response. On 2 January, there were demonstrations in Kazakhstan; President Tokayev responded positively and took appropriate measures to rectify the situation. He also made some political changes. It would seem, however, that there were rioters, and violent action was taken by the Government against them. As members of the CSTO, they have asked for help from that organisation. I would add that President Tokayev has announced reforms in the Parliament there today. Will my noble friend comment on what I have said? Furthermore—

Noble Lords: Too long!

Lord Ahmad of Wimbledon (Con): My Lords, I recognise the role that my noble friend plays in the region and with Kazakhstan. Of course, as I have already said, we condemn the acts of violence and destruction of property. We have noted, as he did, President Tokayev's recent speeches, including his recent statement to Parliament and his speech to the virtual summit of the CSTO in which he described the events in Almaty and other cities across Kazakhstan as an attempted coup and gave a detailed outline of the very serious violence perpetrated. We continue to press for

ensuring, through the intervention of the CSTO, the territorial sovereignty and integrity of Kazakhstan and the return of all other troops from the CSTO at the earliest opportunity.

Lord Alton of Liverpool (CB): My Lords, in light of the bloodshed and loss of life in Kazakhstan, should we not be more cautious about being too admiring of what Mr Tokayev has been saying? Has the Minister seen the reports of the orders given by him to the 2,500 mainly Russian soldiers in the Collective Security Treaty Organisation to shoot without warning?

Lord Ahmad of Wimbledon (Con): My Lords, I agree, and assure the noble Lord that in my engagement directly with the Deputy Foreign Minister the importance and centrality of respecting human rights, including the right to peaceful protest, was a point I certainly emphasised. The noble Lord is right to raise the statements that have been made. We are calling for calm and respect for and a return to full rights of protest for citizens in Kazakhstan.

Lord Collins of Highbury (Lab): My Lords, Kazakhstan's President said he expected Russian-led forces to leave in the next 10 days. Bearing in mind what the noble Lord just said, what is the department's assessment of that statement? Last night, I asked the noble Lord about the public register of beneficial owners of overseas entities that buy and sell property in the UK. A recent Chatham House report showed that the Kazakh elite own over half a billion pounds in luxury property in the UK. When will we act on corruption in this country?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Lord's first question, of course it was through the CSTO, of which Kazakhstan is an integral part, together with Russia, Belarus, Tajikistan, Kurdistan and Armenia, that the President invited those troops in. We have been reassured, through our engagement with the ambassador, that there is a scaling down and that a return will begin very shortly. On the noble Lord's point about those who use London as a safe haven, I assure him that we continue to be very vigilant to this. As he may be aware, we have cracked down on illicit finance through, for example, the Criminal Finances Act 2017 and we have already published our ambitious economic crime plan for 2019-22. We will be going further in tackling dirty money. The National Crime Agency, for example, has increased the number of its investigations into corrupt elites, as he termed them, and the Government are reviewing all tier 1 investor visas granted before 5 April 2015.

Lord Purvis of Tweed (LD): My Lords, the deaths in the anti-corruption protests are truly tragic but, as was said, the Chatham House report, *The UK's Kleptocracy Problem*, highlights in very stark detail the fact that the corruption reaches as far as here in London. It also says that the Government have failed to act. In its fifth summary point, it says that:

“Westminster—and the Conservative parliamentary party in particular—may be open to influence from wealthy donors who originate from post-Soviet kleptocracies, and who may retain fealty to these regimes.”

When will the Government act, and why does Chatham House draw its conclusion about the vulnerability of Westminster and the Conservative Party in particular?

Lord Ahmad of Wimbledon (Con): My Lords, our own democracy is protected and robust, and there are specific rules that govern any kind of donations to any party. All parties need to be vigilant and adhere to those. As I have already indicated, the Government have taken direct steps on tackling illicit finance and will continue to do so.

The Lord Bishop of Leeds: My Lords, have Her Majesty's Government made any assessment of the impact of this instability on the wider region, particularly given Kazakhstan's proximity to China, its very strong cultural relationships with Turkey, and its importance for the stability of the southern republics and those nations that lie below it?

Lord Ahmad of Wimbledon (Con): My Lords, the right reverend Prelate is right to draw attention to the location of Kazakhstan and the impact of the situation on its near neighbours. I have recently assumed responsibility for central Asia in the FCDO and I am seeing how we can work with others, directly and bilaterally with other key alliances and partners, to ensure greater stability not just in Kazakhstan but in the wider region.

Lord Cromwell (CB): Does the Minister agree that this is an example of how regimes that suppress all opposition and brand it terrorism end up creating dangerous and violent outcomes, which are the only opportunity left for dissent?

Lord Ahmad of Wimbledon (Con): My Lords, as I have said, we have made very clear through our direct exchanges with my Kazakh counterparts the importance of upholding human rights—the right to free protest and the right to challenge Governments. We have been reassured by statements and comments made recently but, as the noble Lord, Lord Alton, pointed out, it is about not just statements but actions. We are observing the situation very closely.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, the noble Lord, Lord Campbell-Savours, wishes to speak virtually. I think this is a convenient point to call him.

Lord Campbell-Savours (Lab) [V]: My Lords, is not one of the drivers behind Kazakhstan's unacceptable aggression America's unrelenting desire to foment trouble in former Soviet satellite states? If our policy is to promote democratic values in Kazakhstan, would it not be more effective to foster a very different policy approach from that adopted by the Americans and challenge many of the decisions they are now taking in eastern Europe?

Lord Ahmad of Wimbledon (Con): My Lords, my job is to speak not for the American Government but for Her Majesty's Government. We are engaging constructively on the principles of democracy, and

thriving democracy means that all human rights are respected—the rights to media freedom, to freedom of religion and to protest. We make those points consistently in international alliances and directly with countries, as we are doing today with Kazakhstan.

Lord Mann (Non-Aff): My Lords, where is our moral compass? These are Soviet-style atrocities, yet we are propping up the commercial law regime through our senior judges. The Minister does not appear to be clear enough in recognising that ordinary people are being murdered on the streets of Almaty by a corrupt regime. Should we not be standing against this Soviet-style authoritarianism?

Lord Ahmad of Wimbledon (Con): My Lords, I beg to disagree with the noble Lord. We have been very clear; in my statements I have highlighted, most importantly and centrally, the engagement on adherence. Kazakhstan recognises itself as a democracy, which means protecting human rights and the rights of citizens to protest. We have made that point very clearly. The situation remains fluid, if somewhat more stabilised today, and we are observing it very closely. We will continue to exert maximum influence in our relationship with Kazakhstan and build on it.

Baroness Smith of Newnham (LD): My Lords, Vladimir Putin suggested that the protesters were external forces. Does the Minister think that Vladimir Putin knows something that the rest of us do not? What does he think the causes of the protests really are?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Baroness is right to point this out. Various descriptions have been given of the protests. As she will be aware, they started because of the energy crisis and fuel prices in Kazakhstan. That perhaps demonstrates—the facts are still emerging—other reasons and concerns that the citizens of Kazakhstan have. As to what the protesters' reasoning is and who they are, we have noted quite carefully the statements made and I have pressed directly that, if there is evidence of that kind of interference, we should be informed accordingly.

Nuclear Energy (Financing) Bill

First Reading

3.18 pm

The Bill was brought from the Commons, read a first time and ordered to be printed.

Business of the House

Motion on Standing Orders

3.19 pm

Moved by Baroness Evans of Bowes Park

That (1) Standing Order 38(4) (so far as it relates to Thursdays) and (5) (*Arrangement of the Order Paper*) be suspended until the end of the session so far as is necessary to enable notices and orders

[BARONESS EVANS OF BOWES PARK]
relating to Public Bills, Measures, Affirmative Instruments and reports from Select Committees of the House to have precedence over other notices and orders on Thursdays; and (2) the ballot for topical questions for short debate on Thursday 20 January and Thursday 27 January be suspended to enable lunch break business to be scheduled, notwithstanding paragraphs 6.48 and 6.53 of the *Companion to the Standing Orders*.

Motion agreed.

Business of the House

Motion on Standing Orders

3.19 pm

Moved by **Baroness Evans of Bowes Park**

That Standing Order 38(1) (*Arrangement of the Order Paper*) be dispensed with on Tuesday 18 January to enable the Committee stage of the Health and Care Bill to continue before oral questions that day.

Motion agreed.

Downing Street Event

Commons Urgent Question

3.20 pm

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer given by my right honourable friend the Paymaster-General to an Urgent Question in another place on reports of an event held in the Downing Street garden on 20 May 2020. The Statement is as follows:

“Thank you very much, Mr Speaker. Both the Prime Minister and I came before the House in December to set out the details of the investigation being led by the Cabinet Office into the allegations of gatherings in Downing Street and the Department for Education in November and December 2020. As I did then, I apologise again unreservedly for the upset that these allegations have caused.

The Prime Minister has asked for an investigation to take place, and the terms of reference for the investigations that are under way have already been published and deposited in the Library of this House—in fact, of both Houses. The investigations are now being led by Sue Gray. She is the Second Permanent Secretary at the Cabinet Office and the Department for Levelling Up, Housing and Communities, and of course a former director-general of propriety and ethics. The Government have committed to publishing the findings of the investigation and providing these to Parliament in the normal way. The terms of reference set out that where there are credible allegations relating to other gatherings, it is open for these to be investigated, and I can confirm to the House that this includes the allegations relating to 15 and 20 May 2020. It will establish the facts, and if wrongdoing is established, requisite disciplinary action will be taken.

As with all internal investigations, if evidence emerges of what was potentially a criminal offence, the matter will be referred to the Metropolitan Police, and the Cabinet Office’s work may be paused. Matters relating to adherence to the law are, as ever, matters for the Metropolitan Police to investigate, and the Cabinet Office will liaise with it as appropriate. As I am sure Members of this House will appreciate, it would not be appropriate for me to comment on an ongoing investigation, and the Government have committed to updating the House in due course.

I must again point out, as I did in December, and as I know the House will understand, that there is a long-standing practice of successive Administrations that any human resources matters concerning personnel relating to individuals need to remain confidential. But both the Prime Minister and I came before this House in December; we set out the details of the investigation being led by the Cabinet Office into these allegations of gatherings, and those investigations are continuing.

3.22 pm

Baroness Smith of Basildon (Lab): My Lords, whenever I hear Ministers talk about “in due course”, the ghost of Sir Humphrey arises. But let us be clear: lockdown was tough. Throughout it, most of us stuck to the rules, despite personal sacrifices. Noble Lords will have heard some of the examples and testimonies from around the country, and some of those stories are absolutely heart-breaking.

But for those who did not stick to the rules, the full force of the law was used, leading to criminal convictions. By Christmas, in Westminster Magistrates’ Court alone, there had been more than 2,000 prosecutions for ignoring lockdown, breaking quarantine, and hosting or attending parties. Does the Minister agree that the law should equally and fairly apply to all? I suspect I know the answer to that one; I suspect he is going to say yes. So, my second question is more important: why does the Prime Minister need an investigation into whether he attended a party in his own back garden?

Lord True (Con): My Lords, adherence to the law is important, and the noble Baroness is correct to anticipate my answer on that point. As I have told the House, an investigation is already taking place into a number of events that are alleged to have occurred in Downing Street and elsewhere. The primary purpose will be to establish swiftly a general understanding of the nature of the gatherings, including attendance, the setting and the purpose, with reference to adherence to the guidance in place at the time. That is an ongoing investigation.

Baroness Walmsley (LD): My Lords, is the Minister aware that, at about 6 pm on 20 May 2020, just as the Prime Minister and his staff were gathering in the garden for jovial drinks and nibbles, this House was debating the tsunami of deaths in care homes which occurred despite the great efforts and stress of the dedicated care staff in those homes? Does he understand that they were not gathering for drinks at the end of the working day because there was no end to it and they certainly were not in the mood for socialising?

Does he also understand the anger of the bereaved families of the many elderly people who died at that time in such large numbers? They wanted the opportunity to hold the hand of the person they loved as they passed away. They did not get that opportunity; they gave it up because they were following the rules. They now want a straight answer from the Prime Minister: was he there or was he not? Tell us now.

Lord True (Con): My Lords, first I will address what the noble Baroness said in the opening part of her remarks, which will strike a chord with the whole House. Frankly, there is not a single Member of this House—including me, if I may say so—who will not have experienced peculiar personal sadness in the unparalleled circumstances of Covid. We should take that as a fact to which we pay due honour and respect. So far as the event to which she alludes is concerned, I can only repeat that investigations are taking place and the findings of those investigations will be made public.

Baroness Chakrabarti (Lab): My Lords, the Minister rightly acknowledges—I take him at his word—that the rule of law means one law for everyone, whether Ministers, officials or ordinary citizens. Of course, ordinary citizens do not get to appoint their ethics adviser to investigate when they are accused of criminal offences. When he thinks it appropriate, could the Minister please explain for the benefit of those outside this place what level of *prima facie* evidence is sufficient to justify cutting out the ethics adviser and going straight to a police investigation?

Lord True (Con): My Lords, as I said in the Statement, as with any internal investigation, if evidence emerges of what was potentially a criminal offence, the matter will be referred to the police. The noble Baroness is quite right that matters relating to adherence to the law are properly for the police to investigate, and the Cabinet Office will liaise with them as appropriate.

Lord Anderson of Swansea (Lab): My Lords, the Prime Minister's staff must now be scurrying around trying to find a plausible exit strategy, beyond just saying "Wait for the investigation." Surely the real problem is one of trustworthiness. Throughout his career, the Prime Minister has shown himself to be a stranger to the truth. There is a simple question which you do not need an investigation to answer—did he or did he not attend the gathering or the party?—or will there be some sort of selective amnesia, as there was over the refurbishment of No. 10?

Lord True (Con): My Lords, it will not please the noble Lord opposite, but I repeat that a fair truth in a democracy is that it would not be appropriate to comment on or prejudice the outcome of an investigation. I agree with what was said by the leader of the Opposition, Sir Keir Starmer, who stated on air that we should let the investigation play out and take its course.

Lord Watts (Lab): My Lords, the Prime Minister himself knows whether or not he attended the party. Is not the country entitled to know whether he attended,

yes or no? It would clarify matters and give him some respect, which he is lacking at the present time.

Lord True (Con): My Lords, I do not agree; I have respect for the Prime Minister. On who was at these events, as I have said, the primary purpose of the investigation will be to establish swiftly the nature of the gatherings, including attendance, and the findings will be published.

The Lord Bishop of Leeds: My Lords, could the Minister advise those of us on these Benches how we should respond to clergy, who took an enormous personal toll in having to deal with families who were not able to attend funerals or to be with their loved ones? They were very tempted to break the rules for strong pastoral reasons but did not, and they are now faced with this.

Lord True (Con): My Lords, I would answer in a similar tone to that in which I replied to the noble Baroness. I pay huge respect to the role of the clergy and faith leaders of all faiths and to their support for people. I understand, as does everyone, the collective pain that has been suffered, but there is also due process, and it is important that the investigation be allowed to run its course and the facts laid out. A number of people are alleged to have been involved in these incidents; let us see the outcome of the investigation.

Baroness Falkner of Margravine (CB): My Lords, a few days ago there was a lot of talk on the Conservative Benches about the damage done to the rule of law by the jury verdict in the Colston trial. Many people who understand the way the law operates would support jury trials and the way that trial was conducted. Will those same Ministers and other Members reflect now on the damage done to the rule of law and what the country will make of this in relation to the rule of law as it goes forward? Would the Minister care to tell the House a little more about the consequences that might flow from the outcome of the investigation? It will go one way or another; why does he not address the consequences that we might expect as regards the action to be taken?

Lord True (Con): My Lords, I believe in the rule of law, the sanctity of respect between human beings and in due process. I repeat what I said in the Statement, that as with all investigations, it will be the case with this one that if evidence emerges of what is potentially a criminal offence, the matter will be referred to the police.

Lord Tomlinson (Lab): My Lords, at the beginning of the Statement that the noble Lord read out to us, there was an apology. What was being apologised for?

Lord True (Con): My Lords, the Statement read:
"I apologise again unreservedly for the upset that these allegations have caused."

Lord Browne of Ladyton (Lab): My Lords, no one who has read this email is in any doubt that there was a party. That means that millions of people in this country who have had the advantage of being able to

[LORD BROWNE OF LADYTON]
read it know that it was an invitation to a party. They know that it emanated from the Prime Minister's private office; we know that it was written in the first person plural, because it started with the word "we"; and they know what "we" refers to when an email comes out of the Prime Minister's Office. They believe the evidence that has been swirling around—albeit that it is hearsay—that people have said that they were there and that the Prime Minister and his then partner, now wife, were there too. Why have we been treated twice now to the Prime Minister coming to the Dispatch Boxes in Parliament and telling people that they should suspend their belief until some apparently independent inquiry tells them what they already know? Why do we not just live in the real world, own up to it, and then we can move on and get on with helping to run the country?

Lord True (Con): My Lords, I believe it is a wise course in human events and in life generally to act on the basis of full facts. I have assured the House that the investigation is being conducted swiftly. It will establish the facts, and if wrongdoing is established, there will be requisite disciplinary action. However, I agree with what Sir Keir said, that the investigation should be allowed to run its course.

Health and Care Bill

Committee (Day 1)

3.34 pm

Relevant documents: 15th Report from the Delegated Powers Committee and 9th Report from the Constitution Committee

Clause 1: NHS Commissioning Board renamed NHS England

Amendment 1

Moved by **Baroness Thornton**

1: Clause 1, page 1, line 5, at end insert "after an impact assessment under section 153 has been published."

Baroness Thornton (Lab): My Lords, I move Amendment 1 and speak to Amendment 313 in my name, but I shall allow those noble Lords to leave who do not particularly wish to hear my peroration this afternoon.

It is a pleasure to open proceedings in Committee on the Bill. These amendments concern the need to publish an impact assessment, a matter with which your Lordships' House is very familiar. I expect that the Minister will now tell us that the Government have now delivered on this amendment because—guess what?—first thing this morning, into our inboxes popped an impact assessment, so I of course claim that as my first victory. We need to find out whether this impact assessment is actually any better than the ones that have gone before and whether it fulfils the requirements in both the amendments, and I confess I have not had time to read it yet, but I commend it to your Lordships' House.

The real issue is that the Government's lack of serious and realistic impact assessments is symbolic of the lackadaisical manner that this Government take to Parliament and the legislative process, which is why I intend to take this opportunity to make a few general points for context on themes which I expect will recur throughout deliberations on the Bill.

We have received a highly critical report from the Delegated Powers and Regulatory Reform Committee and, more recently, a report from the Select Committee on the Constitution. In the words of the Delegated Powers Committee, the DHSC is again introducing a Bill which

"falls so short of the standards which the Committee — and Parliament — are entitled to expect."

The Bill lamentably fails to address the recommendations set out in the Cabinet Office's *Guide to Making Legislation*, and the Constitution Committee agrees with that assessment. It says:

"We regret that the powers under this ... complex bill are structured in a way that hampers greater detailed parliamentary scrutiny, and note that the Bill ... was not subject to pre-legislative scrutiny",

from which it would have undoubtedly benefited. The Delegated Powers Committee further says:

"The Health and Care Bill is a clear and disturbing illustration of how much disguised legislation a Bill can contain and offends against the democratic principles of parliamentary scrutiny."

These are serious charges, and ones which tell of the nature of the task before the House in the next few weeks. The Bill allows 21 affirmative regulations and 42 negative. It provides for Orders in Council, schemes, rules, licence conditions, 46 directions, and makes 17 references to guidance and one to publishing the document. Of the 156 delegated powers, more than half are subject to no parliamentary procedure. I urge noble Lords to read and reflect on both those reports and allow their concerns to govern the process that we have before us over the next few weeks. Our job, surely, is to put some flesh on this skeleton framework Bill. We need to test the Bill with these reports, and the splendid, if concerning, document *Democracy Denied?*

On that theme, we on these Benches are concerned about how the Bill centralises powers, with the system being effectively top-down, managed by the new, improved NHS England—for example, with powers to appoint and dismiss key staff without any kind of democratic oversight. On top of that, we have a power grab by the Secretary of State that has drawn widespread opposition.

At Second Reading, and previously in the Commons, views have been expressed about the Bill: how it fails to address the main issues facing the care system and that it risks disruption in the NHS at a time when attention should be elsewhere as we struggle against Covid, which continues.

Of additional concern, we are told to expect two vital streams of information of great relevance: a White Paper on integration and further announcements on changes to social care. It would help to know when these will be available. Is it sensible to proceed without them?

It is welcome that the implementation date has been pushed back and that we have more time to undertake effective scrutiny of the Bill. Our position is clear. We support the parts of the Bill that come directly from the long-standing requests from the

leadership of the NHS to remove the worst aspects of the previous 2012 Act. We have already made the point that we warned about the consequences of that Act and, in general, we welcome a return to principles of collaboration and co-operation.

Our aim will be to ensure that the NHS's desired outcome is achieved with appropriate safeguards against unintended consequences such as a rise in private sector involvement or an increase in the power of vested interests over those of patients, but we will do so in a way that minimises any disruption.

It would of course have been far simpler to have a Bill just reversing the previous Act, which should have been introduced years ago as soon as the negative impacts had been properly recognised. Such a Bill would have passed much more easily, but we are where we are.

It would not be too harsh to say that the Bill has become a bit of a mess and we are here to do our best to get the legislation into shape. So far, there is evidence of a lot of agreement on the major issues with three or four glaring exceptions which we hope we will be able to resolve perhaps between the end of Committee and Report. Our challenge is how valid concerns are dealt with and how much the House is prepared to leave to ministerial assurances of good intent—as it always has been.

The amendment regarding implementation sets out concerns about the extent of any disruption to an already hard-pressed care system. Cynics say, and the evidence tends to confirm, that reorganisations rarely achieve anything much other than disruption and unintended consequences, and this is an NHS reorganisation Bill above all else. It is to be hoped that ending compulsory competitive tendering, putting the integrated care bodies on to a stronger statutory footing and consolidating the top level of the NHS can be done with limited impact.

It should be mentioned that many aspects of the changes are either already implemented or will go ahead even before the legislation is passed. The NHS has got into the habit of ignoring the legal niceties in recent years to get round the problems created by the 2012 legislation, and I am not sure whether it should be congratulated on that or not. However, it should be a fundamental part of our scrutiny that we have a full and comprehensive impact assessment with all the assumptions and expectations spelled out. I am not sure whether this document fulfils that; we may return to it later in the Bill.

The previous impact assessment was very poor and incomplete. Our amendment points this out and suggests that, with a system as fragile and complex as the NHS, there ought to be a reasonable period for assessing the impact and planning accordingly. This is not intended as a delaying tactic. If the alleged impact assessment that we have so far had been a great deal better, the need would not be so strong. Delay will not help the NHS but neither will a bad Bill. Let us remember that aspects of the previous Act were still being argued about years after it had passed.

Others are also intending to contribute on the general point about the need for some assessment of impact, perhaps through a review or through a parliamentary process such as a sunset clause. We will support those too. I beg to move.

Baroness Walmsley (LD): My Lords, I support the demand of the noble Baroness, Lady Thornton, for an impact assessment and look forward to having the many hours it will take to read and thoroughly digest. As she said, this is a Bill of 244 pages with 155 substantive provisions and 156 delegated powers, over half of which allow no parliamentary scrutiny. Although the general thrust of it, in relation to easing the transition to more integrated and collaborative working, is welcomed and indeed demanded by the sector, that same sector is now very hesitant about its introduction at this time. As I prepared this speech, there were 122,000 absences in the NHS due to Covid and 200 members of the Armed Forces were being drafted in to help; 24 hospital trusts had declared a crisis situation, 20% of beds are occupied by Covid patients in 16 hospital trusts, and discharge targets are not being met.

So, despite the many preparations for this structural change to the NHS, many in the sector have welcomed the short delay in implementation that is being proposed. The Government have said that they want the Bill to be permissive, but the question is, permissive to whom? It is a skeleton Bill that gives a wide range of powers to the new ICSs to commission services in the way they think fit, but it also gives the Government unprecedented powers to use regulations, guidance and even published documents to specify what should be done in future. It gives the Secretary of State considerable new powers.

3.45 pm

Rarely have I read such a scathing report from the Delegated Powers and Regulatory Reform Committee as its 15th report. Like the noble Baroness, Lady Thornton, I am a great fan of this authoritative committee. In a previous report, *Democracy Denied?*, it pointed this out:

“The Health and Care Bill is a clear and disturbing illustration of how much disguised legislation a Bill can contain and offends against the democratic principles of parliamentary scrutiny.”

Therefore, the least we could ask for was an assessment of the first measure: turning the NHS Commissioning Board into NHS England, with its new scope and new powers. It is a disgrace that this was put before us only this morning on the first day of Committee. Yes, we already had a 178-page memorandum explaining what is in the Bill, but we do not know what is not in the Bill because the Government plan to give us all that at a later stage through the numerous Henry VIII powers that they plan to take, most of which allow for scant parliamentary scrutiny.

Therefore, it is up to this Committee of the whole House to demand as much information about the Government's intentions as we can get through the use of exploratory amendments over the next few weeks. The Minister can be assured that we will do so; I look forward to his response and having time to read the impact assessment.

Lord Cormack (Con): My Lords, in the absence of the noble and learned Lord, Lord Judge, I take it upon myself to echo the trenchant observations of the noble Baroness, Lady Walmsley. What do the Government think Parliament is? What do they think it is for? Again and again, we have these Bills—skeleton Bills, Christmas tree Bills, call them what you like, but one thing is abundantly plain: Henry VIII is sitting firmly on his throne issuing his diktats.

[LORD CORMACK]

This is no way for a democratic Government to treat Parliament, especially the elected House. However, if the elected House will not fully protect itself, we have a duty to speak up for it. There are many who, because of the circumstance of their election recently in Parliament, perhaps feel a bit diffident, but we have a duty not to be diffident. We in this House have a duty to say, “This is no way to treat Parliament”, because we are in effect creating executive departments with dictatorial powers. That is inimical to a parliamentary democracy. It is plain wrong. I do not know how often I shall intervene in the debate on this Bill, but what I do know is that I do not like what I see.

I have enormous and genuine respect for my noble friend the Minister. He has already, very rightly, earned himself a reputation in this House as somebody who is anxious to learn about parliamentary customs and practices, and to listen and reflect. I beg him, as I look at him now, to please talk to his colleagues in the other place who have greater power within the department and say to them that there is real concern in this House—I am delighted to see my noble friend Lady Cumberlege nodding at this point—which has within it many medical experts, such as my noble friend Lord Ribeiro, the noble Lord, Lord Winston, who does not seem to be here this afternoon, my noble friend Lord Kakkar and many others who know about medicine and how things should be organised and who do not see it as their prime purpose to help a Secretary of State hang his baubles on the Christmas tree.

We have a chance—we have done it before in other Bills—to try to improve on this skeleton, this Christmas tree, and to put Henry VIII back in his box, which is where he should be put. I hope that as this Bill goes through your Lordships’ House it will be probed, scrutinised and improved.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): I start by thanking the noble Baroness, and indeed all noble Lords who have spoken thus far. I will make a general point in response to my noble friend Lord Cormack. I recognise that I am relatively new to this House and that I have much to learn. I hope to learn much, not only from noble Lords who have more experience of the procedures of this House and of holding the Government to account but from many noble Lords from across the House with medical expertise and management expertise in the health and social care sector.

I also thank the noble Baroness, Lady Thornton, for bringing this debate before the Committee. Amendment 1 would mean that we could not commence the change of legal name from the National Commissioning Board to NHS England until after an impact assessment for each of the clauses in Part 1 of the Bill is published, while Amendment 315 would mean that we could not commence Part 1 until after the publication of an impact assessment for each clause’s impact on the risks, costs and benefits to patients.

I hope I can reassure the noble Baroness that my department has published the impact assessments. She acknowledged this and I accept that they were not published in the most timely way. I will endeavour to

do my best to make sure that we publish these assessments with as much notice as possible. They are available for noble Lords to review on GOV.UK. I am very happy for the noble Baroness to take credit for the first impact assessment. We will endeavour to do better. We will also commit to publishing further impact assessments for secondary legislation made under the powers contained in the Bill, where those regulations will have significant impact on the health and care system or private businesses, to provide transparency and clarity to the system.

The amendment would also delay the commencement of Part 1 until at least six months after commencement regulations were laid before your Lordships’ House. This would delay the implementation of the key provisions contained in Part 1.

The NHS put forward its recommendations for legislation in 2019. It is preparing, subject to parliamentary passage, to implement the ICB provisions of the Bill from July 2022. We know that ICBs in effect exist in many areas, in whatever form of development, and it is essential that we put these on a statutory footing as soon as possible. The development of ICBs builds on years of development work in local systems to improve partnership working. Delaying the implementation risks a loss of momentum in establishing statutory integrated care boards and the benefits that they are intended to deliver. For these reasons, I ask the noble Baroness to withdraw her amendment.

Baroness Thornton (Lab): I thank the Minister for that very gracious answer and start to our deliberations. I also thank in particular the noble Baroness, Lady Walmsley, and the noble Lord, Lord Cormack. I really was rather hoping that the noble Lord, Lord Cormack, would come in, as this is absolutely what he knows about. He is quite right. I hope that noble Lords who are experts in this will look carefully at the Bill and at the two reports I referred to, because they will need to guide us in our deliberations over the next few weeks.

Let us see what the impact assessment says—whether it works or not—and see whether we need to review certain parts of the Bill with a view to looking at the Constitution Committee’s report, for example, which also was published only yesterday. With that, and with the warning that this is the beginning and not the end of the discussion, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2

Moved by Baroness Merron

2: Clause 1, page 1, line 5, at end insert—

“(1A) The Board of NHS England must be made up of—

- (a) a Chair appointed by the Secretary of State;
- (b) five other members so appointed of whom—
 - (i) one must be appointed to represent Directors of Public Health;
 - (ii) one must be appointed to represent the Local Government Association;
 - (iii) one must be appointed to represent the interest of patients;
 - (iv) one must be appointed to represent the staff employed in the NHS;

- (v) one must be appointed to represent the integrated care partnerships;
 - (c) one further member appointed by the Secretary of State after being recommended by the Health Committee of the House of Commons as a person with appropriate knowledge and experience;
 - (d) executive members as set out in Schedule 1 to the Health and Social Care Act 2012.
- (1B) In making the appointments in subsection (1A)(a) and (b) the Secretary of State must have due regard to—
- (a) the need to ensure diversity and equality of opportunity; and
 - (b) the need to ensure that no person who could be perceived to have a conflict of interest by virtue of their current or recent employment or investment holding in any organisation with any role in the delivery of services to the NHS may be considered for appointment.”

Member's explanatory statement

This amendment requires changes to the membership and composition of the Board of NHS England to reflect its new role under the Bill.

Baroness Merron (Lab): My Lords, I am grateful to the noble Lord, Lord Patel, and the noble Baroness, Lady Walmsley, for their support.

This amendment seeks to define the composition of the board of NHS England to better align it to the new requirements set out elsewhere in the Bill. There must not be any doubt as to why board members have been appointed. In other words, their appointment must be made on their ability to contribute and add strength to the board, rather than—perhaps—because of those whom they already know. Key factors in the appointment of board members need to be an independent assessment of their value and meeting a fit and proper test of freedom from conflict of interests—things that I hope we would all agree on in your Lordships' House.

Beyond that, we must also look at what the new NHS England board will be required to do. Other parts of this Bill deal with the powers and duties of this new version of NHS England, originally the NHS Commissioning Board. This is the clearest demonstration of the reversal of the 2012 Act, as the new NHS England bears no resemblance to its original predecessor—and that is a good start. The new NHS England will of course be an amalgamation of the old NHS England, Monitor and the NHS Trust Development Authority. It will commission some specialist services. It will be the regulator of a market that no longer exists. It will performance manage both commissioning for integrated care boards and provision of services by trusts and foundation trusts.

This is indeed a wide range of responsibilities, and how it sits with roles within the department unfortunately remains as vague as ever, with the ability of Ministers to micromanage depending on other parts of this Bill. However, the most crucial policy change is that the new NHS England will sit at the top of a system based on the integrated care boards being the major commissioners of services. The Explanatory Notes and the government pronouncements about these new integration bodies strongly assert their role as driving the reintegration of the NHS, repairing the worst of the fragmentation caused by the 2012 Act and dealing with aspects of previous legislation which had a somewhat market-centric view of our NHS.

This purpose drives what we now need from the new board members of NHS England. Those new board members must chime with this new philosophy of partnership and collaboration rather than markets and competition. In the new world, the NHS will still be bound, as it always has been, by its core principles: comprehensive, universal, free, and funded from general taxation. Board members need a demonstrable record of commitment to these principles. They should also have a commitment to the new values, which favour a stronger role for patients and the public to have influence, a view of the NHS as contributing to reducing inequalities and improving well-being, not simply being a sickness service, and greater alignment of NHS services provided through local government. The current make-up of the board is a chair and five other non-executives, all appointed by the Secretary of State and then the appropriate executive directors. Given the huge importance of the NHS, it is appropriate of course that the chair and at least some of the non-executives are appointed by the Secretary of State. This amendment deals only with the remaining non-exec members.

4 pm

We cannot ignore what has gone before and has been given huge media coverage: the quite blatant use of patronage in appointments in this very space of the NHS. To be fair to past Ministers, the NHS itself has been known for making appointments for the wrong reasons, such as moving on disgraced leaders, if they go quietly, only for them sometimes to re-emerge in a different but lucrative role elsewhere.

The amendment seeks to give some direction to the Secretary of State in making the appointments and to ensure that at least one non-executive director is put on the board by a genuinely independent process and not directly by the Secretary of State. It would ensure that the key influences on the board come from public health, local government, the patients themselves and the staff, without whom the NHS cannot exist. It would ensure the appointment of people who can really make a proper contribution. It also sets out how the Secretary of State must appoint suitable people and be able to justify appointments against standards.

We know that NHS England has already been given a huge range of responsibilities, and the need for greater transparency and accountability on the part of NHS England is, I believe, self-evident. I hope the amendment will find favour with the Minister and I look forward to his response, as well as to the contributions of other noble Lords. I beg to move.

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, the noble Lord, Lord Howarth of Newport, is taking part remotely. I invite him to say whether he wishes to move his amendment.

Amendment 3 (to Amendment 2)

Moved by Lord Howarth of Newport

3: Clause 1, in section (1A)(b) insert—

“(vi) one must be appointed to represent providers of non-clinical services promoting health and wellbeing.”

Lord Howarth of Newport (Lab) [V]: My Lords, I fully support the objectives of my noble friend Lady Merron and her co-signatories to Amendment 2. However, as indicated in Amendment 3, in my name, I believe that it would be appropriate to add to the board's membership a person representing a very important element of providers, who are always at risk of being overlooked when the NHS is, as is so often the case, under intense pressure.

There is a growing body of research evidence demonstrating that non-clinical approaches can be highly beneficial to health and well-being. Engagement of the creative imagination and with the arts, culture and nature has profound health-giving benefits, as well as leading to improved well-being. Other non-clinical approaches, such as engagement with sport or volunteering, are likewise beneficial. Moreover, they offer significant benefits in easing pressures on general practitioners and the wider healthcare system. Before the pandemic, it was estimated that one in five GP appointments was for non-medical reasons. A survey by the Royal College of General Practitioners in 2018 found that 59% of family doctors thought social prescribing could reduce their workload.

Non-clinical approaches can help us move away from the present state of affairs, in which we are under-doctored and over-medicated, and they will bring significant cost savings. The World Health Organization's scoping review reported that evaluation of Arts on Prescription suggested an average return on investment of £2.30 for every £1 spent, through reductions in unnecessary prescribing and reductions in the use of health services, including emergency hospital admissions.

The potential benefits of such approaches have been recognised by the Department of Health, in the establishment of the National Academy for Social Prescribing and in the preventive strategy set out in the *NHS Long Term Plan*, which envisaged that:

"Within five years over 2.5 million more people will benefit from 'social prescribing', a personal health budget, and new support for managing their own health in partnership with patients' groups and the voluntary sector."

But that was under a different Secretary of State and before Covid and the huge growth in the backlog that is now absorbing so much of the energy and thinking time of the NHS.

These benefits are experienced not just by the individual; they are societal. A society in which fewer people are lonely and gloomy and more people are energised and filled with a sense of achievement, new self-esteem and optimism, and in which through shared activities they build social capital, is on the way to being what the noble Lord, Lord Crisp, and colleagues have characterised as a healthy and health-giving society.

We all acknowledge that to create such a society we must address the social determinants of health, as argued so compellingly by Professor Sir Michael Marmot. To do so requires not only the integration of the range of health and social care services but an integration of policy across Whitehall and between Whitehall and local, regional and devolved government, in full partnership. Place-based strategies for health are crucial. Integrated care boards, integrated care partnerships and the NHS as a whole must draw on a full range of resources and strengths.

If government fails to act across the board in addressing the societal issues that generate so much ill health and fails to develop a fully-fledged preventive strategy, we will continue to see the NHS beleaguered, insufficiently funded and struggling to cope, with endemic ill health on an enormous scale. We need to make the whole of government an integrated care system. The Department of Health cannot solve the problems of health on its own.

Meanwhile, we must give the best help we can to the board of NHS England by furnishing it with a broad membership along the lines proposed in these amendments, ensuring that, at the highest strategic level, representative voices of a wide range of contributors are heard, including those of the non-clinical providers who have such an important part to play. I beg to move.

Baroness Walmsley (LD): My Lords, I have added my name to the amendment from the noble Baroness, Lady Merron, which I fully support.

Schedule 1 gives a dazzling array of consequential amendments to a vast list of other legislation, which must have taken some poor civil servant weeks to compile, but it does not tell us who will be the extremely important and influential additional people on the board—those who will steer the good ship NHS England along its course. Like any other ship, it needs a captain, officers and crew with the knowledge, experience, expertise and attitudes to steer the ship in the right direction and to enable it to fulfil its functions efficiently and effectively—in whose interests? Those of the patients, of course.

It is also important that nobody on board—let us say, perhaps, the pilot who steers it into port—should have the power to steer the ship not in the direction it should go but in a direction chosen in that person's own interests. That is why the noble Baroness, Lady Merron, and those of us who support her have attempted to specify some of the kinds of people who should be at the helm of this organisation in the new world of integrated care services—and those who should not.

They should include someone to represent public health, especially given the recent experience of the pandemic and the certainty of others in future. They should include local government, given its responsibility for the crucial areas of social care and the social determinants of health outside the health service. They should ensure diversity and include people who can ensure that patient and staff interests are taken into account when decisions are made—after all, without staff there would be no service. They should include someone who can keep an informed eye on the way the ICSs are progressing. They should not include anyone with a financial or employment interest in any organisation that delivers services to the NHS.

This Government have a very poor track record in ensuring that people with a financial interest do not benefit from government contracts. We have had far too many of those scandals relating to the provision of PPE, testing kits and other products and services during the pandemic. Some of those have only recently been revealed. We must avoid that happening as we set up this new body, for which we all have such great hopes. That is why I recommend this amendment to the Minister and look forward to his response.

Lord Patel (CB): My Lords, I support the amendment in the name of the noble Baronesses, Lady Merron and Lady Walmsley. I speak in support of the principles behind the amendment, which were well articulated by both noble Baronesses. Is it wrong in principle to have board members who have experience of NHS England's areas of work, which I agree includes finance? No, but that cannot be totally exclusive of one side of the experience and expertise required. One of the board members suggested in the amendment should be from a public health background; let me take that as an example. That could be a public health director; I do not mind whether it is a public health director or somebody with public health expertise.

The reforms in the Bill are far reaching, but they are underpinned by the integration of health services to deliver on population health. The Government's ambition is to extend healthy life by five years by 2035 and to have a greater focus on health prevention. Public Health England has been abolished and replaced by the Office for Health Improvement and Disparities. It is interesting that the name has changed, but I do not mind that. The word "inequalities" has been used hitherto but, if you use the WHO definition, "disparities" has the same meaning. The aim is to address inequity. The UK Health Security Agency has now been brought into being. It is right that there is strong public health involvement at local and regional level, as defined in the Bill, although it is not clear to me at this stage how this will work at regional level—no doubt we will spend some hours debating that.

Public health directors should be involved in developing strategies for population health at the local and regional level. There is a strong argument for public health representation on all integrated care boards—again, we will discuss these in amendments to come. At national level, the Government need to be much more joined up. The Department of Health and Social Care and the triumvirate of NHS England, the UK Health Security Agency and the Office for Health Improvement and Disparities needs to demonstrate an integrated model that the rest of the service is expected to deliver on. The ICBs will be in a clear accountability relationship with NHS England and NHS Improvement for delivering on all aspects of population health, yet neither will be accountable for public health, except in a limited case where NHS England will have responsibility. NHS England needs strong representation from and involvement of public health expertise, including at board level, to be able to develop indicators that assess the performance of ICBs, including for population health.

Turning to the part of the amendment that relates to public involvement, while there may be a difficulty in identifying an individual who can focus on the needs of patients, there are ways of doing this. The principle is that a board member chosen as a representative of patients' voices knows that it is that individual's responsibility to speak on their behalf. Of course, I am biased; I would say that the chief executive or, more appropriately, the chairman of Healthwatch England should be represented on the NHS England board. I fought the battle and lost—the noble Earl, Lord Howe, well remembers the point about Healthwatch being an important aspect, but we will come to that debate at a later stage. This time, I hope I do not lose.

I strongly support this amendment and the principle that representation on the NHS England board needs to reflect its work.

Baroness Harding of Winscombe (Con): My Lords, I begin by declaring my interest, having very recently stepped down as the chair of NHS Improvement, which included both the NHS Trust Development Authority and Monitor. I am very supportive of the spirit of these amendments, and I could not agree more with the way in which the noble Baroness, Lady Merron, set out the importance of propriety in the appointment process and the skills, attitude and culture that the directors on the board of the new NHS England need to have. It is essential, as she said, to have a spirit of collaboration, integration and patient focus.

4.15 pm

While I am very supportive of their spirit, I fear that these amendments fly in the face of best practice for the leadership of the boards of large complex organisations, whether they are public sector, private sector or third sector boards. I have chaired and sat on all three types, and there are two important ingredients in those boards. The first is diversity of experience, which is the spirit of this amendment. It is essential that there is real diversity of experience, including cognitive diversity, experience of diverse backgrounds and diversity of style, otherwise different positions and viewpoints will not be heard and debated properly. That spirit is really important, but it is also important that boards are unitary—that they are an inclusive team. It is the job of the chair, predominantly, to create that inclusive team. The best practice in both the public and private sector is not one of representatives but of tremendous, diverse experience being brought to create a single, inclusive unitary board, which this amendment sadly does not do.

The other reason I cannot support the amendment is that the skills that this enormous, essential and hugely important body needs will change. I think this is an example of legislative overreach. We should not legislate on the face of the Bill for the skills that you need—for a really quite long period of time, one would hope—for such an important organisation.

As I have said, that diversity is not just people's professional background. I could not agree more with the noble Lords who have just spoken that that diversity is important, but other elements of diversity are also important. We should rely on the chair, on parliamentary scrutiny for the appointment of the chair, and on stakeholder scrutiny through the department and the Secretary of State to ensure that the appointments are run properly. I think we should look to put on the face of the Bill the duties that the organisation needs to have, rather than the specific caricatures of individuals who should sit on the board.

Lord Brooke of Alverthorpe (Lab): My Lords, I generally support the direction of the Bill. I welcome it; I think a move towards less competition and more collaboration is the way forward. I support—[*Interruption.*]

Baroness Jones of Moulsecoomb (GP): I am so sorry.

Lord Brooke of Alverthorpe (Lab): We have a Green intervention.

I support particularly the amendment tabled by the noble Baronesses, Lady Merron and Lady Walmsley, and the noble Lord, Lord Patel, and I pick up the points made so strongly by the noble Lord, Lord Patel, about Public Health England. The major issue where we are still lacking as we move forward is the recognition that we have to go beyond the clinical and be as inclusive and wide-ranging as we can in involving people in the health service. If we go way back, in the early days of the Labour Government, we even talked about people having shares in the National Health Service to try to get more people involved. We are not yet there.

At the other end of the scale, I take a contrary view to that of the noble Baroness, Lady Harding. I have spent a lifetime while I have been in this Chamber working on issues of addiction and with voluntary organisations that offer help free of charge. Often they make no progress, but quite often they produce remarkable results. I believe that Public Health England has not given big enough recognition to those organisations. It endeavours to work with them, but we need greater collaboration between the two. We need not just the public health element present on the board but the suggestion from the noble Lord, Lord Howarth, of wider involvement with what I would describe generally as the third sector. The development of the National Academy for Social Prescribing is a great movement, and it should be expanded at a faster pace. It would produce great benefits in relieving pressures in other parts of the health service.

As somebody who works on the other side—as distinct from being a director and running the organisation—I see the difficulties of trying to get influence at that end. From the noble Baroness's viewpoint, not too many people are involved and the chair makes the decisions, but I beg to differ. I think we need wider representation there. The amendment in the name of the noble Baroness, Lady Merron, provides that, and I most certainly give strong support to Amendment 3 in the name of my noble friend Lord Howarth of Newport.

Lord Patel (CB): My Lords, I would like to ask a question of the noble Baroness, Lady Harding, who has what is accepted as huge experience at board level, on boards of different sizes. If it is right, no matter the size of the board, to have representation selected on the basis of experience, can it be wrong, no matter the size of the board, to have as board members people with experience in, let us say, public health or local authorities—because they have experience specifically in that area—as opposed to people who might have wider experience, including in finance or whatever?

Baroness Harding of Winscombe (Con): I do not think that the noble Lord and I have a substantive disagreement. My concern is about prescribing in the legislation the exact recipe for the team; I am mixing my metaphors. After what we have all been through as a country and as a world, I completely agree with him about the importance of putting public health absolutely at the front and centre of our health and care system. However, legislating for the specific skills of the individuals

who make up the board would be a mistake, because we want to create a team where people's experience, background, style and cognitive approach create the magic that we are looking for. This is only one dimension of that; that is all.

Lord Mawson (CB): My Lords, I was one of the people, along with Paul Brickell, who wrote for Hazel Blears the structure for the Olympic Park Legacy Company. I was involved in that project from day one—along with Lord Rogers, who, sadly, has recently died—and for 19 years. We thought a lot about this question because, in east London, we had to engage with six different boroughs around the 248-hectare Olympic Park. We knew that if we simply brought together representatives, many of whom did not have good working relationships or the necessary practical skills, to deliver that project, we would have another Olympic failure on our hands.

The structure that we wrote for Hazel Blears at that time suggested that we needed to bring the right people together for that project: for example, Keith Edelman, who had just successfully built the Arsenal stadium might be a rather important person to have on the board because he understood the detail about stadiums and how you run them—and we were about the build a half-a-billion-pound one. Or perhaps we would need someone like Nick Bitel, who had set up the London Marathon and knew something about sport and the politics of sport; I discovered a great deal about how complicated all that actually was. Or we might need on the board the most successful Labour mayors in that area—Sir Robin Wales of Newham and the mayor of Hackney.

I am very supportive of what the noble Baroness, Lady Harding, is saying. We built a team of the right people to ensure that we delivered a serious legacy on that 248 hectares in east London. I suggest that noble Lords go and have a look at what happened as a result. Empowering the chairman to choose the right team with the right skill set is absolutely crucial if we are to transform the NHS and make it fit for purpose in this century.

Baroness Walmsley (LD): My Lords, I wonder if I may make a slight clarification; I hope that the noble Baroness, Lady Merron, will agree with me. It is not that we believe that the people who we specify should be representatives of the sectors from which they come. Rather, given the functions of NHS England, the three of us who have signed this amendment feel that those with background knowledge of the sectors that are absolutely key to the success of NHS England should be on the board. They would be there not as representatives behaving in a unitary way, as the noble Baroness, Lady Harding, said, but having the background knowledge and information that can be shared with the rest of the board to make decisions.

The Lord Bishop of London: My Lords, I declare my background as a former government Chief Nursing Officer and non-executive director of a number of healthcare trusts. I was not going to speak, but I have listened to noble Lords' comments today and I come down with the noble Baroness, Lady Harding, in saying that we should not stipulate what skills are

required of a board too tightly. What is in front of organisations changes over time, so the chair needs to be empowered to change. However, one caveat is that it would be wise to consider having somebody on the board with a background in patients. I speak from experience as a clinical professional: we can too easily forget the patient and to see things through their eyes. Far too often, we see things through the eyes of the clinician, which is not always in the best interest of patients.

Earl Howe (Con): My Lords, I am grateful to all noble Lords who took part in this short debate, and particularly the noble Baronesses, Lady Merron and Lady Walmsley, and the noble Lords, Lord Patel and Lord Howarth, for bringing these important issues before the Committee. As they made clear, these amendments seek to make changes to the membership and composition of the board of NHS England. Amendment 2 also outlines the conditions that should be met for the appointment process.

Like my noble friend Lady Harding, I am in sympathy with the spirit of these amendments. It is imperative that the membership of the board of NHS England is able to represent the diverse needs of patients and the populations they serve, as well as their twin functions of commissioning and holding commissioners and providers to account.

I was very much in sympathy with the principles and sentiments expressed by the noble Lord, Lord Howarth, in speaking to his Amendment 3. Executive members of the board are selected based on their expertise and ability to manage the delivery of NHS England's functions. It is also important that non-executive members have the right skills and backgrounds to effectively support and challenge, and hold the executive to account.

I hope I can reassure noble Lords on the existing and planned board membership arrangements. We absolutely aim to ensure that the most suitably skilled and experienced candidates are appointed to the fully merged NHS England board. The legal provisions therefore need to be flexible, and I can tell the Committee that they already are. Existing provisions setting out the membership of the NHS England board in the NHS Act 2006 already provide the flexibility required for the fully merged NHS England to lead our more integrated health and care system.

I agree that robust governance arrangements are absolutely necessary to oversee public appointments, particularly to NHS England. Unlike appointments to integrated care boards, the appointments of the chair and non-executive members of NHS England are public appointments made by the Secretary of State. As your Lordships are undoubtedly aware, as public appointments, they are managed in line with the Governance Code on Public Appointments and regulated by the Commissioner for Public Appointments. These appointments are made on merit in a fair, open and transparent manner. In line with the governance code, they require due regard to be given to ensuring that they properly reflect the populations they serve, including a balance of skills, expertise and backgrounds—exactly as sought by this amendment, as I understand it. We are fully committed to the importance and value of both candidate diversity and equality of opportunity.

The commissioner works with government to encourage candidates from a diverse range of backgrounds to consider applying for public appointments. All public appointees are expected to uphold the standards of conduct set out in the Committee on Standards in Public Life's Seven Principles of Public Life, as included in the Code of Conduct for Board Members of Public Bodies. The code sets out, clearly and openly, the standards expected from those who serve on the boards of UK public bodies and includes a clear process for managing any conflicts of interest.

4.30 pm

Furthermore, all candidates are required to declare actual or potential conflicts of interest during the recruitment process, which can then be explored by an advisory assessment panel. On appointment and subsequently, candidates publicly declare their interests in a register held by the public body. The Commissioner for Public Appointments regulates these appointments to ensure they are upholding the values of the governance code. I hope that is helpful and that I have reassured the noble Baroness, Lady Merron, sufficiently, at least at this stage of the proceedings, to enable her to withdraw her Amendment 2.

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): My Lords, I remind the Committee that I must call the noble Lord, Lord Howarth, who is taking part remotely, to respond to the debate on Amendment 3.

Lord Howarth of Newport (Lab) [V]: My Lords, I very much appreciate the recognition by the noble Earl of the validity of the concerns put forward by the proponents of these two amendments, and his acknowledgment that the board of NHS England must contain balance and diversity. I also recognise the force of the points made by the noble Baroness, Lady Harding, and the noble Lord, Lord Mawson: it is essential that the chair should have power to ensure that the board is cohesive. I noted that the noble Baroness, Lady Walmsley, had reservations about the principle of representativeness which is stated in Amendment 2.

We have had a very useful debate. In light of the reflections put forward in the debate, particularly what the Minister, the noble Earl, Lord Howe, has said, I beg leave to withdraw my amendment.

Amendment 3 (to Amendment 2) withdrawn.

Baroness Merron (Lab): My Lords, the noble Earl, Lord Howe, hoped that his comments would be helpful and I reassure him that he is always helpful in the comments that he offers. Today, of course, is no exception.

As my noble friend Lord Howarth said, this has been a very interesting debate and it has certainly stimulated many angles of consideration. At a minimum, that has been extremely useful because what binds us all together in this debate, whether or not we agree with the amendment, is the wish to see the new NHS England perform to the highest order in terms of not only confidence but effectiveness. I know that we all want to move in the same direction.

[BARONESS MERRON]

Clearly, we have heard differences of opinion. I am grateful to the noble Baroness, Lady Walmsley, for speaking further to the point about representation. I say to my noble friend Lord Howarth that I did not interpret her as having reservations; her concerns were more about clarification, and I share them. The intent of the amendment was not that people should be consulting back and be a straightforward linear representative, but that they should represent and come from the area which we were discussing. The noble Lord, Lord Patel, made a particularly strong case for the importance of influence in public health; that was echoed by my noble friend Lord Brooke. We are all keen, I am sure, to see the ability to promote good health and well-being such that the NHS, as I said in my opening remarks, should not be focused entirely on dealing with ill health, important though that obviously is.

It is important that we get the right people in place to build the right team. It is crucial that they work together. I am sure that many noble Lords who are non-executives on boards know that a successful board is one that invites challenge, dissent and the widest range of voices. I certainly hope the new NHS England board will do this.

As the right reverend Prelate the Bishop of London so clearly put it, it is too easy for patients' voices to be forgotten—this must not be the case. I know the noble Earl, Lord Howe, will do his best to ensure that those voices are well heard. Certainly, we in this House will continue to pursue that.

The areas outlined in the amendment from which we had hoped to seek representation remain as important as ever after this debate. I am sure that the noble Earl, Lord Howe, and the Minister will reflect on them in the context of the debate. I thank the noble Lord, Lord Mawson, and the noble Baroness, Lady Harding, for providing challenge, as is quite right and proper. I look forward to the new board of NHS England doing the job we all want it to do. In view of our debate, I beg leave to withdraw my amendment.

Amendment 2 withdrawn.

Clause 1 agreed.

Schedule 1 agreed.

Clause 2 agreed.

Clause 3: NHS England mandate: general

Amendment 4

Moved by Lord Lansley

4: Clause 3, page 2, line 8, at end insert “and insert “, including in achieving improvements in the outcomes recorded in the NHS Outcomes Framework””

Lord Lansley (Con): My Lords, I am very glad to have this opportunity to contribute to the Committee's discussions. We turn to the mandate, which noble Lords will recall is the means by which the Secretary

of State principally holds NHS England to account for the delivery of its functions and responsibilities in relation to the NHS.

This becomes more important as time goes on, for two reasons: first, because NHS England will incorporate within its own activities more of the functions pertaining to the NHS, particularly the powers and responsibilities of NHS Improvement; secondly, because in the past there was a sense in which some transparency was associated with the bodies across the NHS. NHS Improvement represented the interests of NHS service providers and NHS England represented the interests of the commissioning of services—that is, the public interest and the population health interest. These are to be incorporated in one organisation; that is the essence of the integration that NHS England and NHS bodies have sought to achieve, contrary to the structures of the 2012 legislation. I wish them success with it, but it does not enhance accountability, either to Parliament or the public. Therefore, the mechanisms for accountability must be as clear as we can make them.

As it happens, since 2013 I do not think Secretaries of State or Parliament have used the mandate in the way it was intended they should. On a number of occasions, the Secretary of State has not used the mandate on an annual basis but has run it on, and we therefore have before us—as we will see in many places in this legislation—an acceptance of how practice has developed and that the legislation should come into line with it.

On a number of occasions, I will simply throw up my hands and say, “Fine, if that is how the NHS wants to do things, let us put the legislation into that structure to enable the NHS to do its job in the way it wishes to.” Indeed, I suspect that those outside this House who are looking at the current situation in the NHS are saying, “What is the relevance of us engaging in all this legislative activity at this moment?” Part of the answer is that legislation impacts on the day-to-day activities of people in the NHS much less than they might imagine. Secondly, one of the things we can do sensibly is to say that, even before the pandemic and the additional extreme pressures that the NHS has had to face, it had developed its own way of working, it wants the legislation to fit with that and I think it is probably helpful to the NHS to do that.

There will be other places, and we will come to them later, some of which I mentioned in my Second Reading speech, where I think the Government are looking to go beyond and to change what the NHS has done by way of practical integration, practical implementation and practical decision-making. I think we should resist some of those. I do not think it helps the NHS, at a time of such extreme pressures, for there to be some of these innovations, and maybe we need to call a halt to some of them.

One of the things, however, that the Government are not intending to do is to dispense with the mandate. The mandate is, in my view, more important for the future, for reasons of the importance of the transparency of accountability for the NHS for the performance of its functions. Since we went into recess before Christmas, NHS England and NHS Improvement have published their operational guidance for 2022-23. I think they

have actually set out a pretty admirable and comprehensive set of objectives, but only a minority of those objectives are outcomes related. Many of them are, quite understandably under current circumstances, very focused on the volume of activity and the targeting therewith—in particular, for example, that the level of elective activity should rise to 110% of the pre-pandemic level and that diagnostics should increase to 120% of the pre-pandemic level. This is absolutely instrumental if we are to deliver on or get back to remotely the kind of waiting time figures we experienced in the earlier part of the last decade—I might say back to 2012-13, when we reduced waiting times to their lowest level.

The point is that there is a great danger, which we have seen in the way Secretaries of State have structured the mandate in recent years to focus on process, on targets and on volume and to devote insufficient continuing attention to the outcomes that are achieved. I gladly make clear that, while I move this amendment, I do not think it is the way the legislation should be framed. What I am looking for from my noble friend is the Government's acknowledgement that, even as they focus on waiting times, targets, productivity, volumes and the mechanisms by which the volumes of activity in the NHS can be increased in the years ahead, we must not lose sight of outcomes.

What I mean by that is that we have seen a number of examples in the past of how the pursuit of waiting time targets led to significant problems in terms of hospital-acquired infections, which really threw the NHS off course for more than one or two years. So, in the NHS outcomes framework there is a domain relating to safe care, which I think enables us to focus on things like hospital-acquired infections and continuously to measure the outcomes we are achieving in relation to that.

The same is true in relation to preventing premature mortality. This, happily, is an area where, by focusing on outcomes, we can demonstrate that we are meeting internationally comparative high levels of performance. Of course, that does not relate only to cancer, but it is one of the reasons why we do not have a separate debate for Clause 4. I was prompted to put this amendment forward partly because of Clause 4, however. I am glad that it is in the Bill—it was part of a debate we had more than 15 years ago, when John Baron was with me on the shadow health team in another place—but the point is that we were always focused on one and five-year survival rates for outcomes in relation to cancer. What Clause 4 does is enable us to focus on outcomes in that respect.

4.45 pm

However, it would be a serious mistake for us to focus on one set of outcomes and not a broader set of outcomes. I look back on our development of the NHS outcomes framework; it is one of the things we have done in the past decade or more that I am very pleased about. We should focus on that and use it. It is not something that managers can necessarily navigate by on a day-to-day basis, but it is something for which we should hold the NHS accountable. Are we preventing people dying prematurely? For example, what is our ability to prevent mortality from stroke within 30 days—and likewise with cancer outcomes? What is our ability

to ensure that people recover when they have treatments? As I mentioned, do we have safe care? Are we avoiding hospital-acquired infections? Are we improving quality of life for people with long-term conditions, taking the whole population with long-term conditions into account? Are we making sure that we have a positive experience of care? In the past decade, we have developed things like the friends and family test; we should be able to look at it and use it as a mechanism for understanding whether we are continuously improving the performance of the National Health Service.

The NHS cannot and should not be defined by the number of beds it has or the number of staff it employs, nor by the fact that people's waiting times have been brought back down and are lower than they are now—that is, that people are not waiting a long time for treatment. All those things are important but, fundamentally, we aim to have an NHS that delivers the best population health and in which, when they are ill, people get good care and recover with good outcomes. What I am therefore looking for by virtue of my Amendment 4 is that the mandate should include a continuous programme of looking at the outcomes achieved by the NHS and understanding whether we are making continuous improvements in those outcomes.

In this group, I also have Amendment 10. It serves only a small, particular purpose: to put a question to my noble friend the Minister. The Government are putting into Section 13A of the 2006 NHS Act a power for the Secretary of State to revise the mandate and lay it before Parliament, but they are taking out the provision, in what was Section 13B, that, when the Secretary of State revises the mandate, he should “lay it before Parliament, together with an explanation of the reasons for making the revision.”

I do not understand why the Government have left that out. The point of my Amendment 10, therefore, is to ask this question: when the Secretary of State revises the mandate, should we not require the Secretary of State not only to lay it before Parliament but to explain the reasons for the revisions—all part of transparency and accountability?

In that context, it may not be necessary but Amendment 7, in the name of the noble Baroness, Lady Thornton, which is also in this group, makes perfectly good sense to me. It may not be necessary in the sense that there is a power to revise the mandate—clearly, that must extend to when there is an emergency—but I rather agree with the benefit of stating that at this stage and perhaps stating it in the Bill.

I hope that I have explained Amendment 4. It would enable this group not least to look at the mandate and, indeed, at Clause 4 in anticipation of the fact that we will not have a separate debate on it. I beg to move.

Baroness Cumberlege (Con): My Lords, I will make a rather simple point. I listened very carefully to what the noble Lord, Lord Lansley, said, and a lot of it makes an awful lot of sense—of course it does. He is a very experienced politician and he led the NHS in an outstanding way. I have to say that some of us very much supported what was in the 2012 Act and we are finding it quite difficult now to try to discard that—although throughout the Bill points are made that bring it back in, which is to be welcomed.

[BARONESS CUMBERLEGE]

Outcomes are extremely difficult. In the National Health Service, we have two sorts of outcomes: PROMs and PREMs. PROMs are patient-reported outcome measures, and we work hard to try to achieve that. At one time we used to take soundings from people on hospital wards on how they were getting on, and it did not quite work. Now we are trying to ensure that the patient-reported outcome measures are set out quite clearly, so that people can relate to them, and they have to be patient driven—it must be the patients who say what is important to them as outcomes. PREMs—patient-reported experience measures—are equally important, and are also extremely difficult to collect.

At the moment we are trying still to implement the report *First Do No Harm*; I chaired the group that led it. We spent two and a half years listening to patients—that is virtually all we did. Out of that report we have set up centres to address the issue of mesh that was inserted into women, which has proved very unsatisfactory, certainly in the majority of cases that we listened to. We have said what has to happen in these centres before they are fully functioning. We now have sites and staff and are going forward on them, but they will not be any use until we have these outcome measures. This is how we will have to judge things in the NHS in the future.

Of course we have clinicians who are extremely well trained and are very good and well-motivated people. But sometimes they can miss the obvious which is transparent to patients. They are the people we should listen to, because they are the people who receive the service and who, like all of us, pay for it. It is important that these outcome measures are taken much more seriously and that we put a lot more work into ensuring that they will work for patients and for clinicians. It is important that the staff in the NHS also understand that what they are doing is valued—or not. On the whole, of course it is valued, but on occasions it is not, as we heard in our report *First Do No Harm*. I just wanted to make that quite simple point.

Lord Patel (CB): My Lords, my knee-jerk reaction was going to be, “I don’t agree with what Lord Lansley says”. However, I have put my knee hammer back in my pocket, because I do agree with him about the importance of using outcomes indicators as a measure of the performance of health in patients. In that respect the outcomes framework has always been a good development. Although Clause 4 focuses on cancer—and I hope we do not change that—it is an example of how it can be used for other conditions to improve healthcare.

The noble Lord has also identified one key omission in this Bill, which I hope we can find a way to fill: who will be responsible for making sure that there is continuous improvement and development in healthcare that measures the outcomes? That is not in the Bill. I hope we might find a way to do that, whether through the mandate or other ways. That is all I have to say.

Baroness Finlay of Llandaff (CB): My Lords, I must declare an interest, because a lot of the outcome measures that are now used are in place at Cardiff University. I will expand a little on and support what my noble friend Lord Patel said about outcome measures,

particularly for something such as cancer. That is in part because the disease process itself is marching on all the time. It is different from many other diseases, where there might be a chronic condition and other things happen as a result of it. If you do not intervene rapidly with some cancers, you miss the boat and go from being able to cure it to a situation where you certainly will not be able to.

The other group of outcome measures that I do not think we should forget has just now been developed: family-reported outcome measures. That is the impact on the family. We know about the number of carers that there are. There are child carers and many unpaid carers. Having somebody in the family with a disease process, waiting for something to happen and seeing that disease process getting worse and worse in front of their eyes, has a major impact on the health of others and stacks up problems for the future in the health service.

That is why, when I was on the All-Party Parliamentary Group on Cancer, I strongly supported John Baron in all his efforts to look at the one-year survival times in cancer. Looking at outcomes can be far more informative than looking simply at process targets, which is what we have been looking at too much to date rather than looking at the overall impact of disease.

Baroness Thornton (Lab): My Lords, I will speak to Amendments 7 and 9 in my name. I thank the noble Lord, Lord Lansley, for introducing this debate and I look forward to supporting the noble Baroness, Lady Walmsley. I think we are about to see harmony breaking out between the four walls of the Chamber. The noble Lord, Lord Lansley, and I are I think in accord over these amendments.

Historically, the mandate is part of the attempted change—I think that is probably the right way to put it—to distance the role of government and Ministers from the sound of bedpans dropping, if I might put it like that. Unfortunately, as the noble Lord, Lord Lansley, said, despite the mandate’s intentions, recent Ministers have still tried to micromanage and otherwise interfere with NHS managers. During the passage of the 2012 Bill, the Government had to concede that the Secretary of State remained politically responsible to Parliament for the NHS.

I think it would be fair to say that laying the mandate before Parliament in each year, as was intended, has not brought about energetic debates and wise reflections in either House of Parliament. But the mandate is not without merit. It is good that the NHS knows what is expected of it and should be free from sudden announcements and other surprises. Without something of this nature, it is wholly unclear how accountability works. So we accept that, at least until the next reorganisation happens, there has to be a mandate, and the important thing is to get this right.

For that reason, we support the two amendments from the noble Lord, Lord Lansley. If anybody knows how the mandate ought to be used, it is definitely him. Trying to have clearly stated objectives in the outcomes framework, or some equivalent, and ensuring that the mandate is objective, evidence-based and publicly accountable must be correct.

5 pm

What most experts have suggested to us is that the NHS would benefit from a more stable background so that it can plan for three to five years or more ahead without lurches in policy and, perhaps more importantly, with the certainty of proper funding to match requirements. We now have the NHS management setting out long-term plans and then taking the bowl to Treasury as and when it can. This is especially relevant in the area of workforce, which is currently a huge challenge and a matter to which we will return later in the Bill. With the NHS so dependent on staff who have to have many years of training, everything points to long-term planning and not to an annual round of moving the deckchairs.

Before the mandate concept entered the jargon, the NHS had to make use of other means to try to work out what was expected. There are still echoes of this in the NHS. It would be valuable for Ministers to reflect on what those who run the NHS think about the mandate and how effective it is, or, more honestly, about how it can be made an effective part of governance and accountability in the new world of collaboration and co-operation. The idea of the mandate being for a longer period and for it to be amended only when something serious happens, perhaps on the scale of a financial crash or a pandemic, certainly has some merit. We certainly favour long-term planning and political stability to assist the NHS to recover from its current parlous state.

I therefore ask the Minister to reflect especially on the two matters raised in our amendments. First, a change in a mandate during its natural term would be hugely disruptive, so there should be some requirement on the Secretary of State to do this only in genuinely urgent circumstances, and he should be able to justify the action to Parliament and to show that the need outweighed the disruption costs.

Secondly, any mandate without a proper financial analysis is always open to question. The setting of the mandate must be tightly linked to the allocation of funding and not entirely divorced from it, as appears to be the case now. That requires a better relationship between the Secretary of State for the department and the Chancellor, but we have to travel in hope. Evidence provided to us and widely published suggests that in the year before the pandemic the NHS had an effective deficit of at least £5 billion. That is the gap between the cost of delivering what Ministers and Her Majesty's Government want and what they are paying for. That is against an entirely unambitious scenario where the NHS was not reducing waiting times and not making serious improvements.

The Commonwealth Fund has shown the impact of inadequate funding as the NHS slides down the table. Just about everyone agreed that this is an inevitable consequence of the chosen approach of austerity in the previous years. There are credible estimates of even larger gaps if the NHS is robustly to tackle lengthening waits and to try to improve the less-than-enviable record on outcomes: almost certainly well over £10 billion per annum. Time and again, we have heard from various parts of the NHS that they are asked to do things that have not been funded. It is an old trick of blame-shifting: provide inadequate funding

but deflect the blame when delivery does not happen. We need to move away from the suspicion of blame-shifting when we discuss the ICBs.

That all points to the need to restore some credibility in a system which asks for things it cannot pay for. Adding a requirement for something like an OBR analysis of affordability looks to us like a sensible step. After all, we have to assume that plans and mandates are costed out, so most of the actual work is already done, so why not get some assurance of the costings and publish it to build confidence? I await the Minister's reply on these matters with interest.

Baroness Walmsley (LD): My Lords, I am certainly with the noble Baroness, Lady Finlay, on the issue of outcomes. Like her, I am a member of the All-Party Group on Cancer, and I was right behind our former chairman John Baron's attempt to get a clear focus on outcomes. I am delighted to see how successful that has been.

My Amendment 8 is very simple. It would prevent the Secretary of State tinkering too often with the mandate. As others have said, the mandate is the primary instrument through which the Secretary of State provides the Government's direction to the NHS. He is right to do so, since the NHS uses the most enormous amount of our money and is of vital concern to every voter and taxpayer—those whom the Government represent.

However, the NHS is a little like the "QE2" in that it is absolutely enormous and takes quite a while to change direction. Indeed, a great many levers have to be pulled for it to do so. Chief executives, boards and professional staff need time to set new plans, targets and employment policies—to say nothing of moving the money around—to comply, as they must, with changes to these mandatory directions from on high. It is therefore highly undesirable for a Secretary of State to change the mandate too frequently. As the noble Baroness, Lady Thornton, said, even when it happens, adequate notice and reasons must be given.

Other amendments in this group deal with other aspects of the mandate, but I want to be fully assured that, given the difficult tasks we set our NHS, its outline instructions and targets are not unfairly changed too often. I feel justified in having this concern, because the evidence of clauses later in the Bill indicates to me a tendency by the Government to want to meddle where meddling is inappropriate and could have negative effects. I refer, of course, to the Secretary of State's attempted power grab, which we will discuss later in Committee.

Can the Minister assure me that there is already some effective measure that would prevent the mandate being changed more than once in any financial year, which would make it very difficult for the NHS to comply?

Earl Howe (Con): My Lords, I am glad to be able to respond to these amendments relating, in their several ways, to the NHS England mandate. I will cover each in turn.

I begin with my noble friend Lord Lansley's Amendment 4. I confess that I am not in the least surprised that he, of all noble Lords, should have

[EARL HOWE]

reminded us of the key importance of the NHS outcomes framework. Amendment 4 would require the Secretary of State to specify objectives that will help NHS England achieve improvements in the outcomes provided for in the NHS outcomes framework. As he and I remember clearly, the NHS outcomes framework is a set of indicators that provide for national-level accountability for the health outcomes that the NHS delivers. The first version was published in 2010 to inform the first mandate to what was then still known as the NHS Commissioning Board. In essence, it looks at long-term health trends across various domains, including quality of care and patient experience. It is a valuable resource and, as my noble friend knows, remains an important tool for measuring the NHS's contribution to improving outcomes over the long term.

I quite agree with my noble friend that progress against outcomes is vital. That is why we have included Clause 3 in the Bill. One of the main advantages of a longer-term mandate is that it will allow us to take a longer-term view of progress against outcomes that can be measured meaningfully only across a number of years.

The noble Lord, Lord Patel, asked who will be responsible for improving outcomes. The answer is that NHS England and ICBs have duties in relation to improving the quality of services. I can assure him that we will hold them to account for doing so. Having said that, we are moving now to a system-wide approach. That entails the need to measure shared outcomes across health and the wider social care and public health system. Some of these outcomes are led by the NHS but many are system-wide, so the business of measuring patient and service-user outcomes will inevitably become more sophisticated.

We want to ensure that our system is flexible and able to adapt as those system approaches develop and mature. I hope my noble friend therefore appreciates why we would not want to enshrine the NHS outcomes framework in the mandate in statute, in a way that might limit or compromise our ability to explore broader system approaches as we go forward. However, I seek to reassure him that the NHS outcomes framework will continue to be a vital tool to look at long-term trends in health outcomes and the NHS's role in supporting health outcomes. That basic role for the NHS outcomes framework will not change.

I fully understand the concern of the noble Baroness, Lady Thornton, in her Amendment 7 that the mandate should not be revised unnecessarily and without good reason. I completely agree with that sentiment; again, it lies behind our desire to look at the mandate over a longer timeframe than has hitherto been possible. My concern is that her amendment goes much further than, I suspect, she intended, because it would prevent the mandate being revised at all in anything other than an urgent or unforeseen situation. That would be unhelpful, because it would wholly prevent planned changes to reflect, for example, evolving strategic priorities, emerging evidence of need or even a planned general election.

The purpose of Clause 3 is to strengthen the role of the mandate by enabling the Government, where appropriate, to set a mandate that can endure, rather

than having an annual use-by date. Looking back to our debates on the Health and Social Care Bill in 2011, the noble Baroness will remember that it was always the intention that the Government should set a multiyear mandate, and Parliament agreed. In practice, that intention has been hampered by the inevitability of an annual review of the mandate to a fixed deadline—a deadline that does not neatly align to a number of events and strategic processes, including the Budget, spending reviews and general elections. Clause 3 addresses this. I seek to reassure the noble Baroness that there is no intention to revise mandates unnecessarily at the drop of a hat, as it makes no sense to do so.

I am grateful to the noble Baroness, Lady Walmsley, for highlighting a similar set of issues to those raised by the noble Baroness, Lady Thornton. Her Amendment 8 would prevent the Government revising our mandate for NHS England more than once in the same financial year, for any reason. As I said to the noble Baroness, Lady Thornton, I completely understand her concern that the mandate should not be revised so frequently that NHS England is unable to plan for or deliver government priorities effectively. This is why I reassure her that this will not happen, except in the most exceptional of circumstances. I hope she accepts that reassurance, because it cannot be in the interests of any Government, or of patients and service users, to set a mandate that changes NHS priorities too frequently. I expect any such revisions to be very rare. As I have indicated, though, one can imagine that they may be necessary to respond to unforeseen events, to reflect the result of a general election or to signal future shifts in priorities at a point when the NHS is planning ahead. The Government need the necessary mechanism to deal with these and other similar eventualities.

The noble Baroness will see that Clause 3 already contains an explicit safeguard in respect of reasonableness: NHS England will not be obliged to revisit a business plan that it has already published, should the Government revise the mandate within a year of its issue. The Government will also have a continuing duty to consult NHS England before making any revision. I believe that, in combination, these two safeguards work together to fully answer the point that the noble Baroness made.

5.15 pm

Amendment 9 would require the provision to Parliament of an independent financial assessment of the mandate to NHS England, to allow financial scrutiny of issues including sources of funding and value for money. Once again, I am grateful to the noble Baroness, Lady Thornton, for opening up this discussion. I fully agree with her that public spending should be thoroughly scrutinised and constitute effective value for money. However, I do not think that the proposed amendment is necessary to bring this about.

As part of this Bill, we are ensuring that the financial directions which accompany the mandate are laid before Parliament. These directions confirm that the resource and capital limits for the NHS are consistent with the outcome of the spending review. The department works closely with NHS England as part of the spending review, to ensure that its funding is sufficient to fulfil its mandate obligations. The mandate also sets NHS England financial objectives, including on balancing

its budget, and expectations on efficiency. Progress against mandate objectives is assessed annually and reported to Parliament, and that will continue to be the case under this Bill.

The mandate is also guided by the principles in *Managing Public Money*, and existing mechanisms are in place to ensure robust financial scrutiny of NHS finances beyond those of the spending review, including oversight from the Health and Social Care Select Committee and the Public Accounts Committee. The National Audit Office plays a key role as an independent parliamentary body, auditing NHS England's annual report. It also examines and reports on the value for money of different areas of NHS spending. Parliament therefore already has significant oversight of NHS spending; adding an additional independent assessment when other mechanisms are already in place does not, I suggest, in itself provide value for money for the taxpayer.

Finally, I am grateful to my noble friend Lord Lansley for Amendment 10, which would reinstate Section 13B(5) of the National Health Service Act 2006, which has been removed by this Bill. That provision makes clear that if the Secretary of State revises the mandate, he must publish the revised mandate and lay it in Parliament, along with an explanation of the reasons for it. Clause 3 already provides for the Secretary of State to both publish and lay in Parliament any and all revisions made to the mandate. I therefore believe that, as currently worded, the clause wholly meets my noble friend's concern in that regard.

This amendment would also reinstate the requirement to provide an explanation to Parliament of the reasons for revising the mandate, and this would apply to all mandate revisions. In response to my noble friend, I would just say that my colleagues have already provided assurances in the other place that the Government will, in practice, continue to lay a Written Ministerial Statement in both Houses of Parliament alongside any mandate document. I will now reinforce that assurance by repeating the commitment that this practice will continue. Furthermore, such Statements will always clearly explain the reasons for any mandate revisions, whether these are routine or arise from specific and unusual circumstances. That is entirely appropriate, and so I am very happy to make that commitment.

I hope I have been able to give your Lordships some reassurance of our intentions regarding the mandate. I therefore hope that my noble friend will feel comfortable withdrawing his amendment.

Lord Lansley (Con): I am most grateful to my noble friend for that response and to all those who contributed to this short debate. It was a helpful opportunity to reinforce the desirability of the mandate itself being used positively as a mechanism for accountability, particularly where outcomes are concerned.

I entirely take my noble friend's point that what we are looking for should not be confined to the parameters of the NHS outcomes framework. As time goes on, the possibility of developing what are effectively population health outcomes is exactly where we need to go. My worry is that, if the mandate shifts too much towards population health outcomes, we will be trying to express it in terms of outcomes which the NHS

does not control the means of delivering. That goes back to the point the noble Lord, Lord Patel, made earlier about who is responsible for what. As my noble friend said, in essence, the NHS is responsible for delivering the outcomes in relation to healthcare, but the Government are responsible for delivering outcomes in relation to population health, so we cannot confine this to the NHS. The mandate certainly needs to extend into that territory but, in doing so, it should not lose track of continuous improvement in those things that are measured through the NHS outcomes framework, and its development as we go along.

I also take the point about the timeframe. We have learned that we need the NHS to be planning long term, and it is doing that—not least through its development of the 10-year long-term plan. That extends even beyond the Government's funding commitment, which has a different timeframe. Neither of those are very easily reconciled directly with the annual funding settlement. The mandate could be developed as a very effective way to enable the NHS and the Government to show, in a way that is accountable to public and Parliament, how the plans of the NHS and the funding commitments from the Government can be reconciled into measurable changes, targets, objectives and outcomes in the lifetime of a Parliament, because that is what Ministers will inevitably be looking for. We want the NHS to feel that it has some degree of certainty for the longer term; we want Ministers to feel that they have some degree of accountability and control in the year ahead, or two or three years ahead. That is what the mandate should be used to enable them to do.

My last word on the mandate is: please could Parliament actually scrutinise it? It was always intended that there would be annual debates in this House and the other place on the mandate. There never were. I thought it was shocking that the Government did not devote a day in each House each year to looking at, understanding and scrutinising the mandate as a mechanism for us to look at our most important public service—you can always argue about that, but I think it is—and know what we are trying to achieve in the year ahead, even if the mandate extends further beyond that.

I thank my noble friend, not least for his point on Amendment 10 and his reassurance that Ministers will always explain their reasons for revisions to the mandate and, indeed, that such revisions, as we all agree, should not be too frequent or too detailed; they need to be strategic in their nature. I am glad for his reassurance on that point. With those thoughts, I beg leave to withdraw the amendment.

Amendment 4 withdrawn.

The Deputy Chairman of Committees (Lord Brougham and Vaux) (Con): My Lords, before I call Amendment 5, I advise the Committee that the noble Lord, Lord Howarth of Newport, will be speaking remotely.

Amendment 5

Moved by Lord Stevens of Birmingham

5: Clause 3, page 2, line 8, at end insert—

“(ba) in subsection (2) insert—

“(c) whether for the period covered by the mandate NHS England must ensure that revenue expenditure on mental health services increases as a proportion of total NHS revenue expenditure.””

Member’s explanatory statement

This amendment would require the Secretary of State to be explicit and transparent about whether NHS England is required to ensure funding for mental health services grows as a share of total NHS revenue expenditure during the period covered by its mandate from the Government.

Lord Stevens of Birmingham (CB): My Lords, these amendments all relate to mental health, and I should perhaps start by following in the wake of my former colleague, the right reverend Prelate the Bishop of London, and declaring my former interest as an NHS chief executive.

I doubt whether anyone here needs persuading of the importance of mental health. Over the past decade, there has been a sea change in public awareness and attitudes and, at the same time, the NHS has begun to expand services to make good historic deficits, but it is not mission accomplished—far from it. The mission has just got a lot tougher. The pandemic has exacerbated and intensified mental health needs not just in this country but across the industrialised world. To take just one data point, we have seen a 69% increase in the number of young people being referred to specialist children and adolescent mental health services, including for eating disorders. At a time when, entirely appropriately, the focus is on cutting waits for surgical operations, we must make sure that mental health continues to get the focus, priority and constancy of commitment that it requires.

The purpose of this group of amendments is to ensure that that occurs. Having moved Amendment 5, I shall speak to related Amendments 12 and 136 in my name and those of the noble Baronesses, Lady Hollins, Lady Merron and Lady Tyler.

In a nutshell, our Amendment 5 would ensure that Government mandates to NHS England always contain explicit and transparent marching orders on mental health funding. I think it was a fellow called James Frick who said:

“Don’t tell me what your priorities are. Show me where you spend your money and I’ll tell you what they are.”

That is why, in England, each year since 2015, mental health investment has been required to grow as a share of the NHS funding pie, and I am pleased to tell your Lordships that it has done so. The Minister should not take this amendment as a criticism; it is an encouragement to stay the course of putting our money where our mouth is, towards parity of esteem—or, if he prefers, levelling up between physical and mental health.

Of course, the mathematically minded among your Lordships might argue that if the share of NHS spending going on mental health keeps increasing, eventually we will have overshot what is needed. My response is twofold. First, in the real world, we are many years away from that happy state of affairs, and, in any event, the amendment does not require Governments to increase the relative share of resourcing for mental health; it simply requires them to be intentional and public about their mental health funding choices. It does not tie Ministers’ hands; it just requires them

to reveal their hand. It means that the Government have to be clear about their asks of the NHS, and Amendments 12 and 136 mean that the NHS in turn has to be transparent in reporting on its delivery of them.

That is why these amendments command strong support outside this House from leading mental health charities, patients’ groups, and professions. Taken together, in practice the amendments represent spine stiffeners for the Government and accountability boosters for the NHS. I beg to move.

Lord Howarth of Newport (Lab) [V]: My Lords, I welcome the amendments in the names of the noble Lord, Lord Stevens, and the noble Baroness, Lady Hollins. The emphasis on prevention in her Amendment 13 is particularly important.

I will make two points. There is abundant evidence that the engagement of the creative imagination can benefit mental health through improving well-being, confidence and self-esteem. The *Creative Health* report of the All-Party Parliamentary Group on Arts, Health and Wellbeing discusses, for example, the work of Artlift, a charity founded by a GP, Dr Simon Opher, which delivers arts on prescription in Gloucestershire and Wiltshire. One participant said:

“I had split up from my partner, found myself without anywhere to live and couldn’t see my children. I couldn’t work as I wasn’t physically able to do the job and wasn’t in a position mentally or financially to start a building business again after going bankrupt. Since going to Artlift I have had several exhibitions of my work around Gloucester. I find that painting in the style that I do, in a very expressionistic way, seems to help me emotionally. I no longer take any medication and, although I am not without problems, I find that as long as I can paint I can cope. It doesn’t mean that depression has gone but I no longer have to keep going back to my GP for more anti-depressants, I just lock myself away and paint until I feel slightly better. I now mentor some people who have been through Artlift themselves and they come and use my studio a couple of times a week to get together, paint, draw and chat and I can see the benefit to them”.

The World Health Organization scoping review of 2019 synthesises evidence of the efficacy of the arts in preventing stress and anxiety and building self-esteem and self-confidence. A report to DCMS in April 2020 entitled *Evidence Summary for Policy: The Role of Arts in Improving Health & Wellbeing*, by Dr Daisy Fancourt of UCL et al, draws attention to

“a large literature of RCTs”—

randomised controlled trials—

“on the treatment or management of mental illness through arts involvement”.

Creatively Minded, a Baring Foundation report of 2020, maps 170 examples of organisations running arts and mental health projects in the UK.

5.30 pm

When the first lockdowns came in, Intermission Youth, a London-based charity, offered a range of online activities to support young people’s mental health, from festivals to drama workshops and even a full production of “The Tempest”. One participant said:

“The Tempest rehearsals have been my highlight. They allow me to work towards something. I see familiar faces. I create something practical. Even in a period of unknown, this has been a continuity, an anchor, which has given me structure”.

The engagement of the creative imagination is powerful not only in supporting people to recover from mental ill-health but in preventing it. The same applies to engagement with the natural environment. There is evidence that creative activities can prevent or alleviate symptoms of some of the chronic conditions that affect an ageing population and which are such a burden on the NHS. Music slows cognitive decline and alleviates symptoms of dementia.

Front-line staff, too, have needed additional support to sustain their mental health. At many hospitals around the country, arts teams have been supporting staff under immense strain during the pandemic. University College London Hospitals and the University Hospitals of Derby and Burton, for example, have offered art clubs and choirs to keep people going. At UCLH, 86% of staff who took part said it had provided them with respite, and 97% said it was important that the sessions should continue.

My second point is that such cultural interventions are cost effective. A cost-benefit analysis of Artlift over three years showed that, after six months of working with an artist, people made 37% fewer demands for GP appointments and their need for hospital admissions dropped by 27%. It is much cheaper, through the employment of link workers to support GPs in making such referrals, to engage people suffering from loneliness, anxiety or depression in creative and social activity than to put them on medication or refer them to specialist psychological treatments.

Increasing numbers of ICS leaders are recognising how creative health approaches can valuably support the NHS. Let us make sure that, in framing this legislation, we guarantee appropriate opportunities for social prescribing and other non-clinical interventions to make the full contribution of which they are capable to benefiting both mental and physical health.

The department has commissioned research and funded the National Academy for Social Prescribing and the provision of 1,000 link workers. It is not clear, however, that the department, NHS England or the Office for Health Improvement and Disparities have fully grasped the potential of creative health or that they mean to normalise creative health approaches within their vision and policies. I look forward to the Minister's assurance that the Government do indeed intend this and will design integrated care structures to this end.

Baroness Hollins (CB): My Lords, I start by declaring my interests as a past president of the Royal College of Psychiatrists and a former consultant psychiatrist and clinical academic at St George's, University of London. I thank Mencap and the Royal College of Psychiatrists in particular for the discussions I have had with them about this group of amendments.

I will not list all my amendments and those I am supporting in this group. I say to my noble friend that this is not just a spine-stiffener; it is a reminder, because we forget about mental health. We still forget to think about it and talk about it. One of the things I often do in my career is put my hand up and say, "By the way, what about mental health?" The noble Earl, Lord Howe, will remember the debate 10 years ago; I will come back to that.

The issues covered in these amendments are not new, because the World Health Organization definition of health is about a complete state of mental, physical and social well-being. It is not just about disease and infirmity. Noble Lords may not be aware—I heard this only recently—that a psychiatrist represented the United Kingdom at the first WHO meeting, which is probably one of the reasons why mental health was included at that stage.

These amendments would require the Secretary of State and all NHS organisations to prioritise physical, mental and social well-being. The idea is simply to replicate the parity of esteem duty as introduced in the Health and Social Care Act 2012. I re-read some of my speeches on that Bill, and I can see that I was persuaded to withdraw some amendments similar to those I am speaking to today. While a significant first step, that legislation ensured only that the Secretary of State for Health and Social Care would promote parity of esteem. What we have seen since then is a better understanding of the importance of mental health and mental health services, but there is still a gulf between the financing and delivery of these two equally important services, with physical health continuing to dominate. Of course, they should not really be separate, because there is no health without mental health. Integration is fundamental; we debated that at length in 2011-12 too.

The Royal College of Psychiatrists referred me to data published by NHS Digital last year. In March 2021, there were more than 400,000 referrals to mental health services—the highest ever recorded in a calendar month, and 36% higher than the beginning of the pandemic in March 2020. The pandemic has indeed shown us the importance of good mental health for the general population, including, of course, children and young people and health and care staff.

One of my amendments is on the duty of parity of esteem, and others insert "physical and mental" in multiple places to embed the fuller meaning of "health" in the Bill. I am grateful to noble Lords who are supporting this.

I want to focus on my Amendment 99, which places the duty to ensure parity of esteem at the integrated care system level. We cannot really leave it to chance; history tells us that this would lead to a suboptimal priority for mental health services. The duty that has been in place at national level for the Secretary of State has been so valuable that we can and should replicate it at a local level. Consider a recent survey by the Royal College of Psychiatrists in which two-thirds of respondents said that their ICS had not worked towards parity of esteem effectively. Fewer than one in 10 thought that their local area was effectively promoting parity of esteem.

But if a population health-based approach is core to ICSs' planning and decision-making, I suggest that we need stronger legislative levers to support them to address mental health. Mental health is a key population need across the country. We cannot presently meet demand. No population health approach is complete without the inclusion of mental health, and yet we consistently see the imbalances in place. The new ICSs, bringing together commissioning and provision, could be a huge opportunity to get it right—or, certainly, a lot better—for mental health.

[BARONESS HOLLINS]

At present, there is no assurance in the Bill that mental health will be given equal precedence with physical health in integrated care systems or even by NHS England. My proposed duty for ICSs would help to ensure parity and repeat the success of the duty on the Secretary of State in the 2012 Act—not only that, but such a duty also increases focus at service level and would make sure that ICBs are looking closely at how they are providing for people at risk of or with a mental illness.

The trouble is that it is not easy to determine the best way to achieve this. As it stands, the Bill does not address parity at all. There are other similar amendments. Would putting this duty at the local level ensure that the next step in the battle for parity of esteem will be closer to the everyday experience of people who have struggled for far too long to access mental health services? Developing good integrated care cannot be just about meeting a person's physical health. We must think more holistically about people's psychological and social well-being, as mentioned by the noble Lord, Lord Howarth.

Turning to the amendments tabled by my noble friend Lord Stevens, which would strengthen transparency in mental health spending, he has a unique insight into the NHS and could not be better placed to advise on what improvements are needed in funding of our mental health services, particularly in accountability and transparency. The resourcing of mental healthcare is one—admittedly, only one—indicator of whether we have a chance of meeting the need and, we hope, preventing illness developing in the first place. We know that change is needed. There have been improvements in financing mechanisms. My noble friend mentioned the mental health investment standard. This feels important in light of the most recent spending review, in which, although there was a large funding injection for the NHS, mental health seems to have lost out again.

One wonders whether anyone remembered to ask the Treasury for additional funding for mental health. Having worked in mental health for so long, perhaps I may be forgiven for suspecting that it may have been forgotten once more. Last year's uplift for mental health due to the pressures of Covid-19 was welcome but it was non-recurrent and those pressures have not gone away. Recent estimates from different charities that I have spoken to suggest that the overall share spent on mental health could go down in the coming year. We need these amendments to the Bill to make it clear that only when the Government and the NHS genuinely have mental health at the forefront of their efforts and are truly committed to parity of esteem, even in difficult circumstances, will we make good on the purpose of the NHS when it comes to the needs of people with mental illness in our society.

Baroness McIntosh of Pickering (Con): My Lords, I am delighted to speak to this group of amendments, and I associate myself very closely with the remarks of the noble Lord, Lord Stevens of Birmingham, and the noble Baroness, Lady Hollins. I declare my interest in working for the Dispensing Doctors' Association. I speak particularly to Amendment 263, in my name and that of the noble Baroness, Lady Tyler of Enfield,

and Amendment 138, in my name and those of the noble Baronesses, Lady Tyler, Lady Watkins of Tavistock and Lady Bennett of Manor Castle.

All of us are touched by knowing or learning of those who suffer from mental health problems, and I express my disappointment as well to see that there has been no parity of esteem or parity of funding between physical and mental health. I urge my noble friend the Minister, when responding, to give a commitment, in the context of the Bill, to ensure that the role of the ICS and the other bodies under the Bill will make this happen for the first time in reality.

There are particular issues, as I have seen closely, primarily as an MP but also previously as a shadow Minister. In rural areas, particularly in isolation and where there are pockets of poverty, poor mental health is suffered particularly by those on low incomes and pensioners. The farming community, especially in times of hardship, has great difficulty in communicating anxiety and mental stress. Undoubtedly, the current pandemic has taken its toll, not just in terms of self-isolation quarantine but because many businesses, particularly small businesses, have collapsed, often through no fault of those who set them up.

The background to Amendments 138 and 263 is very closely associated with that of the others in this group. I thank and pay tribute to the excellent work of Anne Marie Morris, who moved these in the other place and is chair of the All-Party Group on Rural Health. I commend her work in this regard. As has been indicated, Governments of all persuasions over recent years have spoken regularly about their desire to achieve parity of esteem between mental and physical health, including in the NHS 10-year plan. However, for this to be meaningful, there must be a legal obligation in the Bill to that effect, supported by reporting mechanisms on inputs to the mental health system, in terms of money, people trained and training places, as well as outputs resulting, including the number of mental health appointments or services made available, uptake of those appointments and the outcomes—namely, the number of patients discharged from care.

5.45 pm

Amendments 138 and 263 seek to identify whether current policy and inputs are working in promoting this long sought-after parity of esteem. They also help us identify any ICSs that are particularly falling behind in their efforts. It is hoped that this will be an encouragement to step up and improve. Amendment 138 seeks for the new clause to require the Secretary of State for Health and Social Care to make an annual statement on how the funding received by mental health services in that year from the overall annual allotment has contributed to the improvement of mental health and the prevention, diagnosis and treatment of mental illness. Equally, Amendment 263 would require an ICB to report on assessing and meeting parity of physical and mental health outcomes. That report would be key in establishing their success.

I hope that my noble friend the Minister will confirm when summing up that this is a one-off opportunity finally to reach parity of esteem between physical and mental health outcomes and that we must have them in the Bill.

Baroness Jones of Moulsecoomb (GP): My Lords, I rise as a member of the general public who can barely tell the difference between paracetamol and ibuprofen but does know, after all my years observing people, that people in good mental health often exhibit much better physical health as well, because they have more resilience, they are more aware of their physical health and they take measures to make themselves healthier. Parity of esteem is a beautiful concept because it does not sound competitive and the more we spend on mental health, the less we might have to spend on physical health. Therefore, it is a no-brainer. I am astonished that the Government did not put it in the Bill when it is such a well-known concept. I very much hope that the Minister will—*[Interruption.]* That was a Tory intervention and now there is a Labour intervention.

I understand that this is a huge challenge, but it is just smart, quite honestly. It offers us a chance to make a real positive change—a societal change for people. I also very much support Amendment 5 tabled by the noble Lord, Lord Stevens, and all the subsequent changes through the Bill, and Amendment 138, tabled by the noble Baroness, Lady McIntosh of Pickering, which my noble friend Lady Bennett has also signed. I look forward to subsequent discussion with the Minister on this issue.

Baroness Tyler of Enfield (LD): My Lords, I rise to speak to the rather large list of amendments in this group—15 at the last count—to which my name is attached. I declare my interests as laid out in the register, particularly my new registered interest as a non-executive director of the Royal Free London NHS Foundation Trust.

Before turning to specific amendments, I have a couple of general points which apply across the board. The first concerns the scale of demand. Despite welcome investment and greater focus in recent years on mental health, there are now an estimated 1.6 million people waiting to access mental health services and so on a waiting list, and prevalence data suggests that some 8 million people with emerging mental health issues would benefit from services if they were able to meet the thresholds to access them.

Frankly, there are still too many instances of mental health services not being prioritised, such as the lack of investment in the mental health estate, which has a real impact on the trust's ability to ensure both a safe and, particularly, a therapeutic environment. Also, the Prime Minister's announcement on investment in new hospitals almost entirely overlooked the needs of mental health trusts.

The second general point is that the need to replicate the parity of esteem duty in the 2012 Bill throughout this Bill is more important than ever at a time when there is growing unmet need across multiple areas of health and care. Local health systems therefore face difficult choices around the allocation of resources. The full mental health impact of the pandemic is still emerging but mental health trust leaders report extraordinary pressures; in particular, a high proportion of children and young people not previously known to services are coming forward for treatment, often more unwell and with more complex problems.

The various amendments in the names of the noble Baroness, Lady Hollins, and my noble friend Lady Walmsley to which I have attached my name, and which I strongly support, recognise the important role that NHS England, ICBs, NHS trusts and foundation trusts will each have in advancing parity of esteem between mental and physical health. It will be important that amendments to the Bill that explicitly require the prioritisation of both physical and mental health are made at each level of the system. Simply put, trusts' ability to prioritise both physical and mental health is crucially dependent on the extent to which integrated care boards and NHS England do the same. Ultimately, of course, each level in the system's ability to meet this requirement is reliant on the Government prioritising both physical and mental health.

I will turn briefly to various sets of amendments. As I have said, a lot of these amendments are about explicitly including mental health on the face of the Bill, at each level and relating specifically to the NHS triple aim. I want to explain why that is important. As I said, Section 1 of the Health and Social Care Act 2012 enshrined in law a duty for the Secretary of State to secure parity of esteem between mental and physical health services. While the new Bill does not remove the duty from the Secretary of State, it fails to replicate it in the triple aim, and this sends out an unhelpful message. I fully accept that culture change needs far more than legislation but legislation can and does send an important signal, which is why we need parity of esteem strengthened throughout the Bill.

We know that the burden of mental illness in the UK far outstrips spend and that referrals to mental health services were at a peak during the pandemic. Thus, I strongly support the amendments tabled by the noble Baroness, Lady Hollins, and my noble friend Lady Walmsley which explicitly reference mental health in parts of the Bill setting out how the triple aim applies to trusts, foundation trusts, integrated care boards, NHS England and the licensing of healthcare providers. This would ensure that the whole of the NHS is aware of its duties around parity of esteem.

I turn briefly now to what is happening at the local level. A recent survey by the Royal College of Psychiatrists found that almost two-thirds of responding psychiatrists considered that their local area had been ineffective in working towards parity of esteem, and fewer than one in 10 said that their local area was effectively promoting parity. That is why each ICB should be required to promote parity; it should be included in their forward plans and they should be required to report on it as part of their annual reports. This would help transparency and help to hold the system to account; that is why I have added my name to the amendments from the noble Baroness, Lady McIntosh, and strongly support a separate amendment from the noble Baroness, Lady Hollins, which calls for a duty on ICBs to promote and seek parity of esteem between physical and mental health and, critically, to annually report on their efforts to do so.

I come now to the Secretary of State's responsibilities in all this. Having the parity of esteem in the 2012 Act has helped to secure welcome and important initiatives, such as the five-year forward view for mental health and the review of the Mental Health Act. Amendment 263

[BARONESS TYLER OF ENFIELD]

in the name of the noble Baroness, Lady McIntosh, to which my name is attached, builds on this duty and requires the Secretary of State to outline to Parliament how the resourcing of mental health services and prevention efforts have ultimately improved care for people with mental illness and those at risk of developing poor mental health. This will bring further and much needed parliamentary scrutiny to this issue, and help us understand how we can build on current efforts to improve care and, most importantly, improve outcomes.

I turn finally to Amendments 5, 12 and 136, in the name of the noble Lord, Lord Stevens, regarding the funding of mental health. Of course, financing is one of the most important indicators of parity of esteem—if it is real—and legal teeth to ensure clarity on it are absolutely critical. As I highlighted earlier, even with recent efforts, spending on mental health is not commensurate with the burden of mental illness in this country. Indeed, a King's Fund analysis recently found that mental health outcomes accounted for 23% of the burden of ill health in the UK but received only 11% of spend for both prevention and treatment.

The Government's recent spending review did not specifically allocate any additional funding for mental health services, despite over £44 billion being pumped into the NHS over the course of the spending review and services facing increased and sustained pressure. The mental health sector has made it clear that it will need to cut services from April 2022 if additional funding is not received. The noble Lord, Lord Stevens, is very well placed to know the right mechanisms and levers to pull to ensure improvements in how we fund mental health services, and how different parts of the system are held accountable for their efforts to do so.

These three amendments, which build on the mental health investment standard—something I very much welcomed at the time—at a local level for ICBs, adding an additional legislative lever and helping to increase overall transparency on how local areas fund mental health services, are extremely important. Finally, at national level, I strongly support the need for greater transparency for both the Government's intentions on mental health spending and NHS England's response to, and meeting of, these intentions.

While we often hear encouraging and warm words of support on mental health from the Government—and they are welcome—these amendments would make clear where those words have been put into action. As the old saying goes, what gets measured gets done.

Lord Patel (CB): My Lords, I will speak to the amendments in the name of my noble friend Lady Hollins. I have put my name to several of her amendments and I will speak to them all but, before I do so, I pay a very special tribute to her. For decades now, she has fought hard to improve the care of people with mental health and learning disabilities. Any progress that has been made has been to her credit, and any progress that we may help to make will not be ours but hers. We should try to help her.

On 8 February 2012, this House voted to put into legislation that mental health should be given parity of esteem with physical health. It was the only amendment

of the 2012 Act that was carried, by a very narrow margin, as the then coalition Government had a big enough majority in both Houses. I remember apologising to the noble Earl, Lord Howe, who was the Minister taking the Bill through the House, for moving the amendment—I do not know why. He looked pretty confident, as he should have been because I was not confident; but I had moved the amendment on behalf of my noble friend Lady Hollins because it was her amendment. It just so happened that she was not able to be here; she was advising the Vatican at the time. Despite that, and to give credit to initiatives by NHS England and other NHS bodies, progress has been made—but it has been slow.

I declare an interest. I hold an honorary fellowship of the Royal College of Psychiatrists, which I am very proud of. In my time as a high-risk obstetrician, unfortunately, I had to look after women who suffered from severe puerperal depression and I can testify to how serious a mental condition it is.

6 pm

The mental health sector faces many challenges, from growing demand and staff recruitment and retention to meeting investment standards set by commissioners that it cannot meet. Many of the challenges are rooted in the historical disadvantage suffered by the mental health sector compared with physical health provision, and the stigma attached to it. Although support is growing, the sector still operates in the context of a care deficit, which means it is accepted that not all those needing help and treatment will be able to access it. We as a society accept that. We would not accept it if it were cancer, heart disease, hypertension or anything else, but we accept that people with mental health conditions may not get the care.

The way mental health is funded, commissioned and paid for leads to the sector's structural disadvantage. Unless this is addressed, mental health will not have parity of esteem with physical health. There is an important point to make in terms of aspirations around meeting the needs of those with mental health problems which do not apply to physical health, and the Government accept that. For example, the aspiration is to increase access for only 35% of children and young people with a diagnosable mental health condition by 2021. That time has come and gone and we have not met even the 35%. To say that we as a society accept that only 35% of children and young people with a diagnosable condition will be able to be cared for is like saying to cancer patients, "Yes, we know you have cancer, but I am sorry, you do not fit the 35% that we are going to treat." How can that be right?

The Government's own figures suggest that, a decade after the scheme was launched, only 15% of children will be able to access these services. Apart from lack of access to care services, mental health trusts are also in need of capital investment. Mental health trust hospitals are in a pretty poor condition. Many have reported serious patient safety issues, with poor infrastructure, yet government plans to fund new-build hospitals do not include any in the mental health sector. The Covid-19 pandemic has further added to the pressure on mental health services, with the full impact still to come. It is a worry that more children and

young people are presenting with mental health problems directly related to the pandemic, or so paediatricians are reporting.

The need for reinstating parity of esteem for mental health is even more important now than ever before, with increasing levels of complex mental health needs, growing unmet needs and a pandemic that has affected the young and healthcare workers—and we do not yet know what the mental health effects will be on those who have recovered and are suffering from long Covid health effects. It is therefore right that the Bill reinforces the need for NHS England, ICBs, trusts and foundation trusts to all have a statutory duty upon them to work towards achieving parity of esteem between mental and physical health. In my view, the issue is far too important to miss the opportunity to have it on the face of the Bill. I hope the noble Earl, Lord Howe, will not rely on a vote this time, but will accept the amendment in the name of my noble friend Lady Hollins, to which I have added my name. If the Minister is minded not to, I hope that, at the appropriate time, my noble friend will seek the view of the House. I will support her.

The Lord Bishop of London: My Lords, I am grateful to the noble Lords who have tabled the amendments in this group. I am very aware of the expertise that exists within this Chamber. As we have heard, mental health has not always been funded in the same way as physical health. However, we have seen improvements, not least in the way we speak about our own mental well-being. We have seen a reduction in stigma and an improvement in services, but the pandemic has taught us that there is a huge unmet need around mental health, and I suspect we will not know the full impact of the pandemic for a number of years. Clearly, those groups of people requiring support around their mental health will include us and our children as well as our health and social care workers.

I am aware that in our churches, we do a lot, like other faith communities and other community groups, to support people's mental health and enable their mental well-being to flourish, not least through our faith activities and our worship. Churches put on many activities, such as dementia cafés; we make available our outdoor spaces for people to undertake gardening to improve their mental well-being; we do walking; we reduce loneliness and isolation, to name just a few. But we are aware that we are not mental health professionals. We walk with people, often in the early stages of mental illness or while they are waiting for referral, and what those within our churches know is that the length of waiting is getting longer. The wait for access to mental health services, particularly talking therapies, has got much longer.

The noble Lord, Lord Patel, and the noble Baroness, Lady Tyler, mentioned the figures; we see the personal impact of that, as people's lives are put into great crisis and they struggle. Not least, it brings stress to their family and friends, and it impacts on their ability to earn. As has already been said, it impacts on their physical health as well. I recognise that we have increased our determination to ensure that there is parity between physical and mental health funding but I believe we require legislative levers to make this happen. Therefore, I support particularly Amendments 5, 12 and 136 as

well as Amendment 99. As we have already said, we need legislative levers at every level to address this parity. My belief is that this will contribute to not just the mental well-being of the community but its physical well-being.

Lord Crisp (CB): My Lords, it is a great pleasure to follow the right reverend Prelate, a former esteemed colleague, and I had better follow her and the noble Lord, Lord Stevens, in declaring an interest as a former chief executive of the NHS in England—as opposed to NHS England—as Permanent Secretary at the Department of Health and as an honorary fellow of the Royal College of Psychiatrists. I support most of the amendments in this group and shall speak particularly about Amendments 5, 12 and 136, about expenditure, and Amendments 91, 92 and 99, about parity of esteem and ICSs.

The most telling comment, I think, from my noble friend Lady Hollins was when she said that mental health is too often forgotten. It is a really sad point. I am struck, when I look through the amendments we are considering today, how the legislation is trying to catch up with where we have got to as a society and how we think about health. It is obvious with mental health. I thought the great speech by the noble Lord, Lord Howarth, emphasising the role of the nonclinical—the people outside the health system and their role in health—and of salutogenesis, the creation of health, not just pathogenesis, the dealing with disease, was really impressive. The other area where this is very obvious is where we are going to come to in a bit, talking about inequalities in a later group.

This is very much part of the new agenda, but it is interesting that we still have the overhang of what I think of as the 20th-century model of healthcare, which is about the acute sector, not the primary sector; it is an NHS focus; it is about doing things to people, rather than with people; and it is about illness. This Bill is, in a way, the first health Bill of the 21st century and it is really important that it sends out some very clear messages and that so many of these amendments can be picked up to make sure those messages are sent out very clearly.

I will pick up the detail very briefly. Amendments 5, 12 and 136 from my noble friend Lord Stevens of Birmingham on measuring and increasing expenditure on mental health—or at least showing the Government's hand and revealing what they are expecting—and, later, the monitoring of it are fundamental. However, let me put in a caveat: they are pretty blunt. They are imperfect, because they are about inputs rather than outcomes and outputs, thinking of some of the things we talked about earlier. They can also be gamed.

Also, as the noble Baroness, Lady Jones of Moulsecoomb, said, physical and mental health are not distinct; actually, most people in civil society treat mental and physical health at the same time, so there will be some arbitrary distinctions. I remind noble Lords, as we all know very well, that there is a major problem for many patients with mental health problems in trying to access help with their physical health. As Professor Sir Graham Thornicroft has said, mental health diseases are killer diseases, because people die earlier—sometimes because of that impact on physical health.

[LORD CRISP]

These are imperfect measures. However, I support them as a blunt instrument for offering steering and pushing the system the right way. They are a real measure that will help bring about change and they should be supported at the macro level.

Amendments 91, 92 and 99 are about achieving parity of esteem within the integrated care systems, and it is right that they are broader based, because people have to make choices at a local level about what they are doing. It is really important that the planners on those boards take full account of mental health and achieve parity of esteem across the whole spectrum, from levels of investment right the way through to ensuring that people with mental health problems can access physical healthcare when they need it. As the noble Baroness, Lady Hollins, reminded us, in 1948 the first meeting of the World Health Assembly defined health as being about

“physical, mental and social well-being”.

It is time we got back to that.

I applaud these amendments and very much hope that the Minister will indicate the Government’s support for a much bigger emphasis on mental health in supporting these and other amendments.

Lord Warner (CB): My Lords, I support these amendments, particularly Amendments 5, 12 and 136, so powerfully spoken to by the noble Lord, Lord Stevens of Birmingham.

As a kind of self-appointed historian to this Committee, I will take us back to 2005-06. There was a massive public consultation, leading to the White Paper *Our Health, Our Care, Our Say*. A thousand people of diverse socioeconomic and age backgrounds gathered in Birmingham to vote on what the public thought were the top priorities for the NHS. Much to the shock of the six members of the ministerial team—including me—who attended that event, and the top management of what was then the Department of Health, led by the noble Lord, Lord Crisp, the public were several decades ahead of the political, managerial and clinical decision-makers of our revered NHS.

It has taken us a really long time to catch up. We have moved since then through a period in which, with great rhetoric, we have inserted into legislation a desire for parity of esteem between physical and mental health. However, no one of any political party has had the temerity to do what the noble Lord, Lord Stevens, has done in suggesting we should actually put our money where our mouth is. It simply has not been done.

The NHS, in my experience, is quite strong on doing things if you give it money. If we do not start putting into the allocations some requirements to at least level up, as the noble Lord, Lord Stevens, says, we will make no progress whatever with our rhetoric. I strongly support these amendments and hope the Government will listen very carefully to this House. I, for one, will be quite happy to march into any Lobby in support of amendments which give some financial equality of recognition to the needs of those with mental health problems.

While I am on my feet, I mention a group which is neglected even within the mental health set-up—those with autism. It is one of the great disgraces of this

country that we have such poor arrangements for diagnosing young people, particularly girls, with autism. We need to do a better job of putting our money where our mouth is on that subject.

6.15 pm

Baroness Watkins of Tavistock (CB): My Lords, I support the majority of these amendments. I declare my interests as president of the Florence Nightingale Foundation and chair of the HEE review of mental health nursing.

A lot of noble Lords have spoken about mental health in the most glowing terms in the last hour. I am extremely supportive of the amendments in the names of the noble Baroness, Lady Hollins, and our new Member, the noble Lord, Lord Stevens of Birmingham. I have put my name to Amendment 138 on keeping proper data and information on waiting lists for people not with mental health issues but mental illness problems. There are people in our country with severe, enduring mental illness who fail to get early diagnosis because they do not even get on to a waiting list to see a consultant.

I see many of these people in my work with the charitable social enterprise I chair, Look Ahead, which provides housing to people who have suffered homelessness, people with mental health problems and learning disabilities and those discharged from prison—having completed their sentence, I should say. So many of those people have had better mental health care in prison than they ever had in society, because we do not list the number of people trying to access these services. We know that the life expectancy of people with long-term mental health problems is so much lower than that of the majority of people with physical health problems, because of things such as drug-induced psychosis, if it is not treated quickly. Professor Murray of the Institute of Psychiatry has been talking about this since I did my PhD there, 30 years ago, and we have still not resolved it.

I emphasise, as an ordinary person who works and has spent nearly 40 years working on a day-to-day basis either training mental health nurses or working with people with severe enduring mental illness, that these amendments are essential if we are to provide good health services for tomorrow’s population.

Baroness Harding of Winscombe (Con): My Lords, I too support this group of amendments, both the parity of esteem words and the funding actions that make it up. I will briefly address the possible objections to it: first, it is not necessary because the Secretary of State already has a duty to maintain parity of esteem; secondly, as I think the noble Baroness, Lady Tyler, mentioned, this is culture change and legislation cannot drive that. In this case, actions speak louder than words. Being clear on the financial actions, as the amendments of the noble Lord, Lord Stevens, are, is a hugely important step on our culture journey.

Even though actions speak louder than words, the words matter too. They particularly matter when, as so many noble Lords have said so eloquently, mental health is so easily forgotten. It is all too easy to forget the hidden pain, anguish and need. I fear it is still far

too easy to forget the hidden waiting lists. The words in this group of amendments are just as important as the actions, to make sure that we do not forget and build on the ground-breaking work that many, like the noble Baroness, Lady Hollins, have led for decades. We are on that journey, but we are definitely not there. I urge my noble friend to consider and accept these amendments.

Baroness Walmsley (LD): My Lords, a duty to establish parity of esteem between physical and mental health was, of course, inserted into the Health and Social Care Act 2012 at the instigation of the noble Baroness, Lady Hollins—if I remember rightly, we on these Benches were right behind her. That is not reflected in this Bill, as she said, despite the fact that the importance of addressing mental health issues has been so amply demonstrated by the rise of these problems during the Covid pandemic. The shortage of services to address them is of great concern—services which were already under stress before the pandemic started because of underfunding over many years.

Although the insertion of parity of esteem into the 2012 Act was welcome and significant, no legislation is enough without the resources in cash and people to make it happen. They have not been forthcoming in the amounts needed to match the growing demand. Like the noble Baroness, Lady Hollins, and my noble friend Lady Tyler, I too have heard concerns in the sector that the share of resources that are currently available might be cut over the next three years under the Government's plans.

The situation is not good. Waiting lists, particularly for children and young people, have been growing. I understand that the average waiting time for a young person for a first appointment is something like 13 weeks and 18 weeks to get to a referral for treatment. It is a bit of a postcode lottery, because some young people get there quite quickly and some wait a very long time. The noble Lord, Lord Warner, is absolutely right that it takes a great deal longer for those waiting for a diagnosis of autism.

According to research from the Resolution Foundation, in 2000, 24% of 18 to 24 year-olds had a common mental disorder. That was the lowest rate of any age group at that time. By 2018-19, that figure had grown to 30% and, astonishingly, by April 2020 it was up to 51%. So, as we set up the new integrated care system, it is essential that we restate the equivalence of mental and physical health. We know, as the noble Baroness, Lady Jones, so eloquently reminded us, that each affects the other, but it is not enough to assume that that is understood in this legislation. It must be clearly stated in both Clause 16 and Clause 20, where the noble Baroness, Lady Hollins, seeks to add it to the duty of the ICSs to secure improvement in the quality of services. We support her, of course.

Perhaps at this point I will mention my little amendments in this group. Amendments 48 and 49 are two of those little amendments that would insert the words “physical or mental” illness into Clause 16, which specifies a list of health provision that the ICB must make for its population. Other noble Lords would insert similar amendments into other places in the Bill. I support all of them.

Amendment 76 would also insert parity of esteem into new Section 14Z38 in Clause 20, which refers to the duty to obtain appropriate advice. We put it there to emphasise the fact that mental health is a very specialised area, and often very good advice can be obtained from small community or not-for-profit social enterprises that deliver mental health services in the community where people work and live, often to very marginalised groups. Large organisations such as an ICS might very easily overlook such good advice about what is needed and where to put it. I support the amendment spoken to by my noble friend Lady Tyler that the triple aim must become a quadruple aim. Mental health needs to go right at the core of what we are trying to achieve.

There is an enormous and growing number of people in the country with poor mental health. The NHS cannot just treat its way out of the problem. There needs to be more focus on public mental health, much of which is addressed by the small community groups I just mentioned, the role of which we will deal with later with Amendment 148 and others. But without the specific acceptance of the parity of esteem duty in the Bill, there is a danger that the diagnosis, prevention and treatment of mental ill-health will continue to take a back seat. It must be in the statute.

Lord Kakkar (CB): My Lords, I support the objectives of this group of very important amendments. In so doing, I remind noble Lords of my interests as chairman of the King's Fund and of King's Health Partners. I have seen this work directly in King's Health Partners through a programme defined as Mind & Body, which proposes to promote pathways of care across the entirety of our health economy that look in equal measure at physical and mental health for all patients, irrespective of their principal clinical presentation. Initiatives such as that important programme could be brought to fruition only because of the emphasis in the 2012 Act regarding parity for physical and mental health. It demonstrates very clearly that legislative intervention can have a profound impact. I very much join in congratulating my noble friend Lady Hollins on her relentless commitment to these issues in your Lordships' House over the past 10 years, which have had and will continue to have a profound impact.

It therefore seems counterintuitive for Her Majesty's Government, in bringing forward this important legislation, to move away from the opportunity to emphasise the importance of this parity. Is it sensible to move away from this position? Why not use the opportunity afforded by this important legislation to emphasise once again the importance of parity between mental and physical health in every respect—not only funding but the organisation and supervision of services and the construction of organisations within the NHS—so that, step by step, we can achieve what every Member of your Lordships' Committee who has spoken in this debate has emphasised?

Will the Minister, in replying to the debate, reassure your Lordships that not proceeding with these amendments does not undermine what has been achieved so far and that what is proposed in the Bill can without the amendments achieve the continued momentum and concentration of focus on this vital issue, to

[LORD KAKKAR]

ensure that we continue not only to develop mental health services but to ensure that they can be integrated more broadly into physical health, and that physical health services can be developed to ensure that the mental health consequences of physical conditions can also be appropriately addressed? In taking this holistic approach, we will achieve the objectives of better well-being and health for all our fellow citizens—one of the most important aspects of the triple aim.

Baroness Finlay of Llandaff (CB): My Lords, I should declare my interests as having worked with liaison psychiatry extensively in the cancer centre in Cardiff, and as chair of the National Mental Capacity Forum for England and Wales.

One group that has not been mentioned yet—I appreciate the noble Lord, Lord Warner, mentioning some—is those with impaired capacity and learning difficulties. We should not underestimate the importance of access to psychiatry for those people who develop mental health problems as a result of their physical health problems. To view the two as separate is a fallacy because they are completely integrated in many people. Many people present initially with a physical illness but develop mental health problems which, if ignored, become really major. The opposite also occurs, of course. Those people with learning difficulties and impaired capacity at different levels often have a raft of quite serious physical medical conditions that might be particularly difficult to diagnose because their mental health problems get in the way of their ability to express themselves.

If we are really to drive up the health of the nation at all, we would be completely misguided to ignore the importance of this group of amendments. Like others, I urge the Government to grasp this nettle, put this in the Bill and make sure we finally address this severe imbalance, which has left so many people never accessing the care they need. That applies both to mental health care and to those with mental health difficulties who then fail to access the physical healthcare support they need because they just cannot express their needs properly.

6.30 pm

Baroness Merron (Lab): My Lords, I feel that today's debate on this important group of amendments should carry much weight because, at its core, this is about treating people as whole people and seeing them as physical, mental and social beings. Our welfare on each of those fronts is absolutely key to the others. It is not possible simply to treat one without regard to the others, and it is crucial that we enhance people's well-being across our whole complexity as human beings.

I am glad to speak to this group of amendments because, as we have heard across all sides of the Committee throughout today's debate, the reality is that, despite the best efforts encapsulated in the mandate, and many times in policy, we find that competing priorities, an avalanche of guidance and instructions, and events—the pandemic has been referred to several times, of course—mean that mental health services can be, and indeed have been, relatively left behind. As the Centre for Mental Health reports:

“Mental health problems account for 28% of the burden of disease but only 13% of NHS spending.”

In the debate today we have also asked ourselves: where is the accountability? For example, we know that in many clinical commissioning groups the actual spend on mental health was below what it was supposed to be, yet there have been no consequences. We need to address not just the finances but the mechanisms around it and the impact on individuals.

The founding National Health Service Act 1946 rightly spoke of a comprehensive health service that secured the improvement of both physical and mental health, and subsequent Acts, quite rightly, have confirmed this. In operational terms, the Government require NHS England to work for parity of esteem for mental and physical health through this NHS mandate, but we know, and have heard again today, that this requirement falls down when we go to a local level.

One way or another, we will all be familiar with a whole range of stories of people who have not been able to access treatment in a timely manner or who find that they are pushed around a system with very little effect and discharged from care before it is appropriate, with consequences that are all too clear to see. It is difficult to overestimate just how challenging this is, not just for the individuals but for local commissioners, because they face competing pressures in trying to deal with this.

As has been emphasised, this group of amendments is about not just getting on the road to financial parity, important though that is, but changing the culture and the whole means of monitoring and implementation, so that disparities can be addressed—indeed, if possible, so that difficulties can be headed off at the pass. It is a well-worn phrase, but it sometimes seems that mental health is a Cinderella service—the one that can be cut first, to the benefit of the more visible services. Some of the recent statistics show that one in four mental health beds has been cut in the last decade, while just last year 37% of children referred by a professional to mental health services were turned away. That is a shocking statistic that we need to move away from.

I thank noble Lords for promoting these amendments and for their contributions illustrating what they mean and the reason we need them today. The noble Lords, Lord Stevens and Lord Patel, made timely points about the impact of the pandemic. If this is not a moment for focusing more on mental health, I do not know what is. The challenge we have and the difficulty presented by the pandemic is that while there is a focus on cutting waits for operations—and we know that is important—this could be a reason for mental health services to get somewhat lost, when in fact the pandemic reminds us of the importance of mental health and the need for the NHS to meet the needs that there now are.

The amendment by the noble Lord, Lord Stevens, encourages and directs the actions necessary for transparency on expenditure. I recall that they were referred to in the debate as legislative levers, and that is indeed what they can be. For me, they encourage not just accountability and transparency but actual action and change—the change we need to see.

The noble Baroness, Lady Hollins, referred to parity of esteem having to be applied locally, not just at a higher level. That is the only way we will see a difference in mental health services and improve the mental health of people in this country.

The noble Lord, Lord Crisp, made reference to the fact that legislation is trying to catch up with where we are as a society, and the noble Lord, Lord Warner, referring back to the meeting he attended, said that the public are well ahead of the game. I believe that is true. Indeed, as the noble Baroness, Lady Watkins, said, we have to prepare for tomorrow. It is not satisfactory that we stay stuck in today, or indeed in the past.

In my view, these amendments move us on. They bring mental health services into real parity with physical health services, but they also connect mental and physical together. I hope they will find favour from the Minister.

Lord Kamall (Con): I begin by thanking all your Lordships for the wide-ranging debate. I want to say how much more I learn, listening to the contributions in each of these debates, before I stand up to speak. I thank all noble Lords for their contributions. As the noble Baroness, Lady Merron, says, this debate carries some weight for our understanding that social, mental and physical well-being are equally important. We should not seek to suggest that one takes precedence over another. I also thank the noble Lord, Lord Stevens, for kicking off this debate with his encouraging and not critical amendments; I take them in that spirit.

Following on from that, and before I go to some of the specific amendments, I will just reflect on some of the contributions made thus far. I first thank the noble Lord, Lord Howarth, for raising social prescribing. I know we have discussed this a number of times since I became the Minister, with particular contributions from the noble Baroness, Lady Greengross, on the importance of art and music in helping to unlock the mind and touch the soul.

As has been made clear, social prescribing is a key component of the NHS's universal personalised care, and I know that, crucially, this can work well for those who are socially isolated or whose well-being is impacted by non-medical issues. The NHS has mechanisms to ensure that social prescribing is embedded across England: for example, the primary care network directed at enhanced services specification outlines that all PCNs must provide access to a social prescribing service.

I also thank the noble Lord, Lord Patel, for raising the importance of the mental health of children and for making sure that we do not forget, even within mental health, that many sections of our society can quite easily be forgotten.

I agree with the right reverend Prelate the Bishop of London: we have come a long way. I remember as a child in the 1970s going to visit my uncle who was a psychiatric nurse at Claybury Hospital and looking at the patients, with the innocence of a child, and thinking, "These people don't look ill to me." We have come far since then. I remember the Rampton hospital scandal in the late 1970s, where the patients were treated appallingly, almost not as humans, and with a lack of dignity. The fact that today we are discussing the parity of mental with physical health shows how far we have come as a society.

We also spoke about loneliness and isolation. The noble Baroness, Lady Watkins, and I have had conversations about loneliness and some of the civil society projects that, for example, bring together lonely

older people with children from broken homes so that both can benefit and learn from each other. I remember a story that I have mentioned in the past: in one of the projects I visited, a rather old man said, "I lost my wife five years ago and I had almost given up on life. The fact that I am now working with children from broken families and am almost being a mentor to them gives me a purpose to live—a reason to get up in the morning. I have no longer given up on life." There are so many of these civil society projects, and no matter how we legislate, sometimes those local projects get to the nub of the problem in their local communities.

I have to pay attention when not only two former NHS chief executive officers but the former Chief Nursing Officer speak in the debate. The noble Lord, Lord Crisp, talked about the focus on outcomes, not inputs and how it is important to make sure that we are not gaming the system, mentioning mental illness and mental health but not doing anything effective about it.

Autism was mentioned by the noble Lord, Lord Warner, a former Health Minister. We are fully committed to improving access to and provision of health and care services for autistic people and people with a learning disability. I know that we have had at least one debate on the treatment of patients with autism and sometimes the terrible conditions they experience. That just shows how important this is.

I am trying to say that in many ways that the Government are absolutely committed to supporting everyone's mental health and well-being and to ensuring that the right support is in place for all who need it. I therefore welcome the amendments which look to ensure parity of esteem across physical and mental health. I assure noble Lords that we support the sentiments behind these amendments and take mental health seriously.

Indeed, one of the considerations in weighing up the many arguments for further measures in response to Covid—from those who were asking for lockdown, for example—is that we also had to recognise that there was a mental health impact to lockdown. As a Government, we had to look not only at the societal and economic impacts but the mental health impacts within health considerations.

On the amendments, I will first address those tabled by the noble Baroness, Lady Hollins—I add my voice to those of the many noble Lords who have paid tribute to her work over many years in promoting this issue and ensuring that we take it seriously. I also pay tribute to the noble Baroness, Lady Walmsley, for making sure that we are informed about this. These amendments would explicitly reference both mental and physical health and illness in certain provisions of the Bill. I understand that the intention is to ensure that due attention is given to both "mental and physical health" and "mental and physical illness". Indeed, you cannot separate mental and physical illness, as the noble Baroness, Lady Jones, said. We have moved way beyond "Pull yourself together, man" or a stiff upper lip attitude. We see how mental health plays a role, for example, in terrorism, with those who are recruited to be terrorists, or in those with eating disorders, or the number of people in prison who suffer from mental health issues. It is important that we fully recognise that.

6.45 pm

That is why, in line with the World Health Organization guidelines, the current references in the Bill to “illness” and “health” already cover mental and physical health. Therefore, while we agree with the principle behind these amendments, we do not think they are necessary. In fact, they could possibly be counterproductive as they could impact the interpretation of those terms in other pieces of legislation.

For example, Amendment 58 inserts “physical and mental” before illness within the proposed Section 14Z34 of the National Health Service Act 2006. However, Section 275 of that Act, which is an interpretation section, defines illness to include both mental and physical illness. That definition flows through into the references to illness in the National Health Service Act 2006 and will include the clauses this Bill inserts into that Act.

In one of my previous careers, I was the head of research at an economic think tank, and I was always fascinated by the unintended consequences that can follow good intentions. One of the unintended consequences we have to be careful of is that the amendments could risk creating discrepancies within other pieces of legislation where there are not explicit references to physical and mental health but where health is currently considered to include both elements implicitly. It could be interpreted that where mental health is not mentioned in those other pieces of legislation, those who have to abide by that do not give it due concern because it is not explicitly mentioned and therefore will do so only where it is explicitly mentioned. Of course, we could go through the statute book and make sure that we tried to amend all that legislation, but I wanted to reassure noble Lords that when we look at health, in terms of the World Health Organization guidelines, that includes both mental and physical health.

For clarity, NHS England will publish statutory and non-statutory guidance to ensure that NHS bodies, including integrated care boards, are clear about their responsibilities for both mental and physical health, echoing the Secretary of State’s duty in Section 1(1) of the National Health Service Act 2006.

On Amendment 99, in the name of the noble Baroness, Lady Hollins, I welcome her interest in ensuring parity again and to reduce inequalities and improve quality, access and outcomes for patients. Integrated care boards must already have regard to the need to reduce inequalities both in access and outcomes for patients under the proposed Section 14Z35 of the National Health Service Act 2006. There are also duties on NHS England, in Section 13E of the 2006 Act, and on ICBs, in new Section 14Z34, to act with a view to securing continuous improvement in the quality of services, including the outcomes that are achieved from the provision of these services which apply to both mental health and physical health services.

The duties on inequalities and improving quality of services must form part of the forward plan the ICBs develop with their partner trusts and foundation trusts in their annual report to NHS England. In exercising their commissioning functions under the proposed new Sections 3 and 3A of the National Health Service Act 2006, ICBs must act consistently with the Secretary

of State’s duty to promote a comprehensive health service in England, to improve mental as well as physical health. This also applies to securing improvement in the prevention, diagnosis and treatment of physical and mental illness. ICBs, like clinical commissioning groups before them, will be expected to report on how they have discharged their commissioning functions and will be assessed by NHS England. Furthermore, both have duties to promote and have regard to the NHS constitution, which explicitly recognises parity of esteem.

Amendment 138 in the name of my noble friend Lady McIntosh would require an ICB to report on assessing and meeting parity of physical and mental health outcomes. I hope I can assure her that the reporting and accountability arrangements we already have in place fully meet this need. By virtue of Section 1(1) of the National Health Service Act 2006, the Secretary of State has a duty to promote a comprehensive health service in England designed to secure improvement in the physical and mental health of the people of England and once again in the prevention, diagnosis and treatment of physical and mental illness.

In line with this duty, the Secretary of State, through the mandate to NHS England for 2021-22, has set an expectation that the NHS will seek to treat mental health with the same urgency as physical health. The Secretary of State also has a legal duty to keep progress in meeting mandate objectives under review. NHS England and NHS Improvement regularly report on the agreed metrics for the Government’s review. They also have strong governance mechanisms in place to monitor both physical and mental health spend and service delivery. Furthermore, considerable data is already published, including via the NHS mental health dashboard.

It is also important to note that a direct comparison between mental health and physical health services through standardised measures can be difficult and sometimes of limited value, as there are some key differences in how and when patients need to access them. However, while these differences must be recognised, and measured accordingly, as I have already outlined I strongly agree that they should be treated with equal seriousness and focus to ensure that the best care is provided, regardless of the nature of the health condition. To introduce a further reporting mechanism on ICBs and the Secretary of State would increase the bureaucratic burden, as the measures mentioned are a rudimentary measure of treatment numbers and not a true measure of parity of esteem.

Amendment 263, also tabled by my noble friend Lady McIntosh, would require the Secretary of State to lay before Parliament a report on how funding to NHS England has supported improvements in mental health illnesses. Over recent years, funding for mental health services has increased. Across local CCGs—including learning disabilities and dementia—and NHS England specialised commissioning, it has reached £14.3 billion in 2020-21, up from £13.2 billion in 2019-20. Further to this, under the NHS long-term plan, mental health services are set to continue to receive a growing share of the NHS budget, with funding to grow by at least £2.3 billion by 2023-24.

As I have set out, the Secretary of State already has a duty to promote a comprehensive health service that considers physical and mental health. I reiterate that, through the mandate to NHS England, it must seek to treat mental health with the same urgency as physical health. The Secretary of State has a legal duty to ensure this. I hope that this will reassure noble Lords somewhat that we take this seriously.

Let me conclude by discussing the amendments tabled by the noble Lord, Lord Stevens, and the noble Baronesses, Lady Hollins, Lady Merron and Lady Tyler, relating to the mental health investment standard. Amendment 5 would require the Government to state in the mandate to NHS England whether it must ensure that expenditure on mental health services increases as a proportion of overall NHS revenue expenditure in the period covered by the mandate. I understand the concern that there should be appropriate clarity and transparency in our expectations in respect of mental health funding. However, I believe that this already exists: a mental health investment standard is in place that expects CCGs, and in future ICBs, to ensure that their spending on mental health grows at least in line with the growth in their overall funding allocations. Performance against the mental health investment standard is monitored via the mental health dashboard, which NHS England publishes quarterly and will continue to do so. The mental health dashboard also brings together key data from across mental health services to measure the performance of the NHS in delivering the long-term plan for mental health. I can confirm that, in 2020-21, all CCGs met the standard.

Amendment 12 would require NHS England to produce and lay a report before Parliament disclosing whether, during the previous financial year, funding for mental health services had grown as a share of total NHS revenue expenditure. Amendment 136 would also require each ICB to disclose in its annual report whether, during the previous year, its funding for mental health services grew as a share of its overall revenue expenditure. We fully support the sentiment of increased focus on mental health spending, and I pay tribute to the work of noble Lords across your Lordships' House in driving change. However, once again I hope I can assure them that the reporting and accountability arrangements we have in place already ensure that mental health investment is a priority for this Government and NHS England, and will be for ICBs in the future.

First, considerable data is already published, as I have mentioned, including on mental health spending. We are concerned that to introduce a further financial reporting mechanism on NHS England or ICBs would be unnecessary, as mechanisms for tracking growth in funding already exist through the mental health dashboard. To strengthen this reporting, NHS England and NHS Improvement required CCGs to commission and publish an independent review of their reported spend against the mental health investment standard in 2018-19 and 2019-20. Due to Covid pressures in the last year, that will not be reviewed. However, NHS England and NHS Improvement will again require CCGs, and in future ICBs, to publish independent reviews for 2021-22.

Having said all that, I have heard the passion and strength of feeling from noble Lords across the House. I want to reassure all noble Lords that I will continue to reflect carefully on the specific points raised in the amendments and in the debate today. I would be happy to meet noble Lords to discuss their ideas and proposals further. I hope that we can find some agreement. I thank your Lordships for the thoughtful debate on this important subject. I hope I have reassured noble Lords that this Government are committed to delivering parity of esteem between physical and mental health. In our conversations between this stage and Report, I hope that we can seek to reduce that gap in understanding. For these reasons, I ask noble Lords to consider withdrawing or not pressing their amendments.

Lord Stevens of Birmingham (CB): I thank the Minister for that careful response. Across the Committee, we have all obviously heard the breadth and depth of concern for the issues surfaced through these amendments. It is obviously for other noble Lords to infer this for themselves, but my sense is that these were not simply exploratory or probing amendments but, significantly, amendments with a view towards testing the view of the House on whether we can change the wording in the Bill itself. That is obviously not a matter for tonight, but I anticipate that we will return to some of these issues, perhaps on Report. In the meantime, I beg leave to withdraw Amendment 5.

Amendment 5 withdrawn.

Baroness Hollins (CB): My Lords, I would just like to make a comment about my amendments. I want to accept the Minister's offer to meet and to think about the best legislative levers. I think the mood of the House is that there should be some progress on this.

House resumed. Committee to begin again not before 8.37 pm.

Building Safety Statement

The following Statement was made in the House of Commons on Monday 10 January.

"With permission, Mr Speaker, I would like to update the House on building safety. Before I do so, I can confirm that I have asked the Permanent Secretary in my department to conduct a leak inquiry. It was a matter of considerable regret to me that details of the Statement that I am about to make were shared with the media before they were shared with Members of this House, and indeed with those most affected.

It is worth pausing at the start of any Statement to reflect on why building safety is an issue of concern to all of us in this House today. It took the tragedy at Grenfell Tower on 14 June 2017, as a result of which 72 innocent men, women and children lost their lives, to put building safety properly on the political agenda. Families were living in a building that was literally a death trap because of failures of enforcement and compliance in our building safety regime. This Government must take their share of responsibility for those failures.

[BARONESS HOLLINS]

Over four years on from that terrible tragedy, it is clear that the building safety system remains broken. The problems that we have to fix have been identified by many across this House, from all parties. I would like at this point to register my appreciation of the work that the late Jack Dromey did on this issue. He was shadow Housing Minister for three years and he did a great deal, both as a trade unionist and as the Member of Parliament for Birmingham, Erdington, to bring to light the plight of those affected by this crisis.

As we know, there are still a small number of high-rise buildings with dangerous and unsafe cladding that have to be fixed. We know that those who manufacture dangerous products and develop dangerous buildings have faced inadequate accountability so far, and shown insufficient contrition. We also need to ensure that we take a proportionate approach in building assessments overall. There are too many buildings today that are declared unsafe, and there are too many who have been seeking to profit from the current crisis.

Most importantly, leaseholders are shouldering a desperately unfair burden. They are blameless, and it is morally wrong that they should be the ones asked to pay the price. I am clear about who should pay the price for remedying failures. It should be the industries that profited, as they caused the problem, and those who have continued to profit, as they make it worse.

We will take action on all of these fronts. To ensure that every remaining high-rise dangerous building has the necessary cladding remediation to make it safe, we will open up the next phase of the building safety fund early this year and focus relentlessly on making sure it is risk driven and delivered more quickly.

We will also ensure that those who profited, and continue to profit, from the sale of unsafe buildings and construction products must take full responsibility for their actions and pay to put things right. Those who knowingly put lives at risk should be held to account for their crimes, and those who are seeking to profit from the crisis by making it worse should be stopped from doing so.

Today, I am putting them on notice. To those who mis-sold dangerous products, such as cladding or insulation, to those who cut corners to save cash as they developed or refurbished people's homes, and to those who sought to profiteer from the consequences of the Grenfell tragedy, I say: we are coming for you. I have established a dedicated team in my department to expose and pursue those responsible. We will begin by reviewing government schemes and programmes to ensure that, in accordance with due process, there are commercial consequences for any company that is responsible for this crisis and refusing to help to fix it.

In line with this, just before Christmas, I instructed Homes England to suspend Rydon Homes, which is closely connected to the company that refurbished Grenfell Tower, from its participation in the Help to Buy scheme, with immediate effect. I also welcome the decision by the Mercedes Formula 1 team and Toto Wolff to discontinue sponsorship from Kingspan, the cladding firm, with immediate effect. The voices of the

families of the bereaved and the survivors of Grenfell Tower were heard, but this is only the start of the action that must be taken.

We must also restore common sense to the assessment of building safety overall. The Government are clear—we must find ways for there to be fewer unnecessary surveys. Medium-rise buildings are safe, unless there is clear evidence to the contrary. There must be far greater use of sensible mitigations, such as sprinklers and fire alarms, in place of unnecessary and costly remediation work.

To achieve that, today I am withdrawing the Government's consolidated advice note. It has been wrongly interpreted and has driven a cautious approach to building safety in buildings that are safe that goes beyond what we consider necessary. We are supporting new, proportionate guidance for assessors, developed by the British Standards Institution, which will be published this week.

Secondly, we will press ahead with the building safety fund, adapting it so that it is consistent with our proportionate approach. We will now set a higher expectation that developers must fix their own buildings, and we will give leaseholders more information at every stage of the process.

Thirdly, before Easter, we will be implementing our scheme to indemnify building assessors conducting external wall assessments, giving them the confidence to exercise their balanced professional judgment. We will audit those assessments to ensure that expensive remediation is being advised only where it is necessary to remove a threat to life.

I will be working closely with lenders over the coming months to improve market confidence, and I have asked my colleague Lord Greenhalgh to work with insurers on new industry-led approaches that bring down the premiums facing leaseholders.

Further, we will take the power to review the governance of the Royal Institution of Chartered Surveyors, to ensure that it is equipped properly to support a solution to this challenge. Those in the industry who refuse to work with us in good faith to take a more proportionate approach should be clear that our determination is to fix the problem for all those caught up in this crisis.

Finally, we must relieve the burden that has been unfairly placed on leaseholders. I want to pay tribute to all those across the House who have campaigned so passionately on this subject. They know the injustice of asking leaseholders, often young people who have saved hard and made sacrifices to take their first steps on the housing ladder, to pay money they do not have to fix a problem they did not cause, all while the firms who made a profit on those developments sit on their hands. We will take action to end the scandal and protect leaseholders. We will scrap the proposal for loans and long-term debt for medium-rise leaseholders.

I can confirm to the House today that no leaseholder living in a building above 11 metres will ever face any costs for fixing dangerous cladding and, working with Members of both Houses, we will pursue statutory protection for leaseholders, and nothing will be off the table. As part of that, we will introduce

immediate amendments to the Building Safety Bill to extend the right of leaseholders to challenge those who cause defects in premises for up to 30 years retrospectively.

We will also take further action immediately: we will provide an additional £27 million to fund more fire alarms, so we can end the dreadful misuse of waking watches; we will change grant funding guidance so that shared owners affected by the crisis can more easily sublet their properties, and encourage lenders and landlords to approve subletting arrangements; and in the period before long-term arrangements are put in place, I will work with colleagues across government to make sure that leaseholders are protected from forfeiture and eviction because of historic costs. Innocent leaseholders must not shoulder the burden.

We have already committed £5.1 billion of taxpayers' funding from the Government, but we should not now look to the taxpayer for more funding. We should not ask hard-working taxpayers to pay more taxes to get developers and cladding companies making vast profits off the hook. We will make industry pay to fix all of the remaining problems and help to cover the range of costs facing leaseholders. Those who manufactured combustible cladding and insulation, many of whom have made vast profits even at the height of the pandemic, must pay now, instead of leaseholders.

We have made a start through the residential property developer tax and the building safety levy, both announced last February, but we will now go further. I will today write to developers to convene a meeting in the next few weeks, and I will report back to the House before Easter. We will give them the chance to do the right thing. I hope that they will take it. I can confirm to the House today that if they do not, we will impose a solution on them, if necessary, in law.

Finally, we must never be in this position again, so we are putting the recommendations of the Hackitt review on building safety in law and we will shortly commence the Fire Safety Act 2021. We are also today publishing new collaborative procurement guidance on removing the incentives for industry to cut corners and to help stop the prioritisation of cost over value. We will legislate to deliver broader reforms to the leasehold system, and also bring forward measures to fulfil commitments made in the social housing White Paper. When parliamentary time allows, we will have legislation on social housing regulation so that social housing tenants cannot be ignored, as those in the Grenfell community were for many years.

Four and a half years on from the tragedy of Grenfell, it is long past time that we fixed the crisis. Through the measures that I have set out today, we will seek redress for past wrongs and secure funds from developers and construction product manufacturers, and we will protect leaseholders today and fix the system for the future."

6.58 pm

Baroness Hayman of Ullock (Lab): My Lords, before I begin, I would like to pay tribute to my colleague Jack Dromey. Jack was a fearless campaigner for equality and justice, and always stood up for those without a voice. We will miss him.

Moving to the Statement, the Grenfell Tower fire was, as we all know, a dreadful and shocking tragedy which killed 72 men, women and children and ruined the lives of many others. One of the outcomes from this tragedy has been the knowledge that thousands of homes in hundreds of high and medium-rise blocks have deficiencies in their construction.

We are more than four years on from Grenfell, and hundreds of thousands of people are still living in dangerous blocks, while many flat owners have been left with spiralling costs for insurance and service charges. People have been facing huge bills and have endured enormous stress. The Government's announcement of new statutory protection for leaseholders is therefore welcome confirmation that developers, not leaseholders, should pay to make homes safe. We should also recognise that this is only the start of the solution.

The Government's plan currently seems to cover only the cost of cladding replacement, which makes up a small fraction of the building safety work required, because remediation work is not just about combustible cladding but about missing cavity barriers, firebreaks and fire doors, for example. A significant number of buildings have both cladding and non-cladding defects.

I understand from the Minister that the Government have withdrawn the consolidated advice note that left thousands of leaseholders in low-rise buildings unable to move home. This is significant progress, but there remains a gaping hole in the Government's proposals. Leaseholders will still face ruinous costs to repair many non-cladding defects. I ask the Minister why the Government are not properly and completely supporting residents who have been hit with these huge costs, through no fault of their own.

We welcome the Government's change in tone, so that leaseholders in buildings of between 11 metres and 18.5 metres will no longer be expected to take out personal loans to cover the cost of the work. Instead, the Government are focused on securing up to £4 billion towards the costs from developers. However, leaseholders are concerned about how the Government will force the developers to pay and experts have questioned whether £4 billion will be sufficient to cover cladding in buildings under 18.5 metres.

The Secretary of State said that he will begin negotiations with those responsible and resort to increased taxation if they fail, but reports have suggested that the Chancellor could block this. Documents from the Chief Secretary to the Treasury to the Secretary of State, Michael Gove, say that no new Treasury funding will be available to pay for this extra work; that the cost of the extra cladding removal must not exceed £4 billion; and that, if Mr Gove is unsuccessful in persuading or compelling developers to pay for the costs, they must be paid from existing housing budgets and

"safety should be prioritised over supply".

I ask the Minister if there has been an assessment of what this would mean for the Government's housebuilding programme. If the Government are serious about making developers pay, they should also take steps to make sure this never happens again. In the past four years, at least 70 schools and 25 hospitals and care homes have been built using potentially dangerous material, yet the Government still have not

[BARONESS HAYMAN OF ULLOCK] responded to a consultation on a ban on combustible materials, which closed over a year ago. I ask the Minister when we can expect to see the response.

Leaseholders are the innocent victims of this scandal and they need the Government to act as quickly as possible to resolve the situation, but remediation has been painfully slow. The Government continue to publish monthly updates on the progress of ACM cladding remediation, which do not include non-ACM buildings. Does the Minister agree that being transparent about the progress to make homes safe is vital to restore leaseholders' trust? According to Labour analysis, at the current rate, it will take until 2026 for cladding to be removed from all social housing blocks and until 2024 from private blocks. Will the Government put forward a timescale to complete the remediation of all dangerous buildings?

Yesterday, the Secretary of State confirmed that he will meet Labour's call for new clauses in the Building Safety Bill, when it comes to this House, to protect leaseholders. I ask the Minister to work with the Opposition Benches and other interested parties, so that we get these amendments right. Can he confirm that time will be allowed for proper scrutiny? I assure the Minister that, when the Building Safety Bill comes to this House, we will welcome the opportunity to work with him to achieve the much-needed improvements in this area.

The Statement before us has new measures that the Opposition welcome and genuinely want to see succeed, but the Government also need a clear plan to make developers pay for the works or leaseholders will continue to be stuck in limbo—stuck in their unsafe homes, unable to sell up and move on. People expect to live safely in their homes and I look forward to the Minister's response to the ongoing concerns.

Baroness Pincock (LD): My Lords, I start by paying tribute to the cladding campaigners, whose extraordinary persistence in conducting a fact-based, solutions-offered campaign is largely responsible for the content of the Statement today. Their efforts on behalf of blameless leaseholders and tenants are a worthy memorial to the tragic victims of the Grenfell Tower fire.

The words of the Secretary of State are welcome. He says that the Government have to take a "share of responsibility", that manufacturers have "shown insufficient contrition", that those who profited will "pay the price" and that leaseholders are "blameless". These are all quotations from the Statement and I welcome them.

On the face of it, the Government are responding to the fire safety and cladding crisis with bold proposals. However, the most important of these are more aspirational than concrete. The aim—to extract £4 billion from the companies that developed the buildings to pay for the removal of dangerous cladding from blocks of between 11 and 18.5 metres—is based on the polluter pays principle. Can the Minister explain how this will be achieved?

Special purpose vehicles and shell companies are devices that have been used to ring-fence the parent company from liability. Will the Government nevertheless expect the parent company to pay up? Then there are

the distant freeholders, not based in this country. How do the Government anticipate extracting funding from them? Will action be taken to prevent construction and development companies ring-fencing their liabilities to prevent losses from parent companies?

Then there are the backstop arrangements to raise £4 billion, which seem rather confused to me. Will the Minister clarify whether further taxation of construction funds will follow if the requisite funding is not raised? The letter from the Treasury seems to suggest that, if all else fails, departmental funding will have to be used. Is that right? Will it be taken from the £12 billion set aside in the department's funding to support affordable and social housing? If so, I am not sure I would be able to support it.

My next question is this: the £4 billion is to remove flammable cladding only. We know that a major element of the remediation costs is in the lack of firebreaks and compartmentation. Who do the Government expect will put these right? I appreciate that the Statement includes a commitment to create a 30-year period of limited liability, during which leaseholders could sue, although this would be a David and Goliath contest.

Then there is the question of timing, which is crucial. Leaseholders already have bills for remediation, many of which are in the tens of thousands of pounds. The date by which they must be paid is April this year. Time is running out. I understand that the Government rightly wish to protect leaseholders from forfeiture and eviction, but what about bankruptcy? Will that protection be in place by April? If not, I fear leaseholders may still find themselves at the mercy of the unscrupulous.

The whole area of social housing barely gets a mention. Those social housing providers that are raising capital to remedy defects are doing so at the expense of new homes being built or existing homes being improved. Can the Minister describe the plan for the social housing sector?

Finally, can the Minister assure us that sufficient funding will be made available if the costs rise above £4 billion? I appreciate that I have posed many questions. If the Minister is not able to provide full answers, will he please provide a written response?

Despite all the questions, I am pleased that the Secretary of State has been so forthright in this Statement and has taken a very large step forward in addressing the plight of the thousands of leaseholders and tenants who have lived for four years in fear and anxiety, and who must not pay a penny piece to put right the wrongs of others.

The Minister of State, Home Office and Department for Levelling Up, Housing & Communities (Lord Greenhalgh) (Con): My Lords, I join the noble Baroness, Lady Hayman, in paying tribute to Jack Dromey. I never met him, but it is fair to say that he touched my political career. All political careers end in failure—I do not know said that; it might have been Enoch Powell—but at the height of my political powers, Jack Dromey, then deputy general secretary of Unite, said at the TUC conference on 15 September 2009 these words, as recorded in the verbatim report

"there are two visions in our country. There is our vision, on the one hand, of every one with a decent home at a price they can afford, a new generation of council homes, green homes, in mixed

communities with decent facilities, council homes so good you could walk down any street in Britain and not be able to tell the difference between private and council. On the other hand, there is the Tory vision. Do you remember Dame Shirley Porter? Wait for it! The flagship Tory council on housing, Hammersmith & Fulham, has drawn up plans that involve the demolition of thousands of council homes ending security of tenure and hiking up rents to market levels”.

I did not agree with his assessment of my time as leader of Hammersmith & Fulham council, and for ever more, I was described as Dame Shirley Porter in drag by some of my political opponents, but Jack was a phenomenal political figure. He was not just a trade unionist and distinguished parliamentarian who campaigned for good-quality housing, he was an extremely effective politician. It was because he noticed me and because of his comments that I suddenly became the 71st most influential right-winger according to a league table in the *Daily Telegraph*, and it has been downhill ever since. I want to thank Jack Dromey for noticing me. I wish there were more Jack Dromeys out there who listened to what I had to say on things.

I join the noble Baroness, Lady Pinnock, in paying tribute to the cladding groups. I suppose that I am the longest-serving Minister in government focused on the building safety crisis. I was appointed in March 2020. I had Covid and, as many of you know, I lost my mother the following April, so I was not really effective until then, but I had been working on this issue and thinking about it and getting to know many of the cladding groups and some of the leasehold groups personally through Zoom and Teams. I want to pay tribute to them as well. I have had meetings with Sarah Rennie of Claddag and am very impressed with what it is doing on behalf of disabled leaseholders. Ritu Saha of the UK Cladding Action Group is literally indefatigable. It is clear that she does not necessarily appreciate what I do, but I appreciate her tireless efforts, together with those of Liam Spender, who is obviously a very good lawyer. Julie Fraser from the Liverpool Cladiators is campaigning for leaseholders up in Liverpool. Giles Grover of the Manchester Cladiators is very effective. As many Bishops know, there is also Steve Day. Not a day goes by without Steve Day contacting me by some means or other—at any time of the day, I hasten to add. He has campaigned tirelessly on behalf of RAQ residents and come up with constructive ways in which we can strengthen the Building Safety Bill.

It is not just the cladding groups. There are also the leasehold groups such as the Leasehold Knowledge Partnership: Sebastian O’Kelly is a very distinguished former property journalist and Martin Boyd has an encyclopaedic knowledge of matters to do with leasehold.

Lastly, as a junior Minister, I should pay tribute to the new Secretary of State, Michael Gove. I really mean it when I say that he is a phenomenon. He has worked incredible magic to come up with a profound and brave reset around building safety. My right honourable friend is very clear about the principles that underpin this reset. We should just reflect on what he said in the Statement—first, on proportion:

“We ... need to ensure that we take a proportionate approach in building assessments overall. There are too many buildings today that are declared unsafe, and there are too many who have been seeking to profit from the current crisis.”

That is absolutely spot on; we need a greater sense of proportion.

On protection, leaseholders are the victims. He said that leaseholders living in their own flats should not bear the burden of fixing historical fire safety defects that are no fault of their own. That too is absolutely spot on; we need to protect leaseholders.

The third principle, on pollution, is that the polluter must pay. My right honourable friend said:

“We should not ask hard-working taxpayers to pay ... taxes to get developers and cladding companies making vast profits off the hook. We will make industry pay to fix ... the remaining problems and help to cover the range of costs facing leaseholders.”—*[Official Report, Commons, 10/1/22; cols 283-285.]*

These are very clear principles set out by my right honourable friend. In yesterday’s Statement, he came out with some significant steps, as mentioned by the noble Baroness, Lady Hayman, such as the withdrawal of the consolidated advice note. That died yesterday. It could not have come a day too soon. It should have come earlier, but it now rests in peace—I hasten to add that it was published in January 2020 and I only became a Minister in March, so I had nothing to do with it.

It is important that we do not have government by diktat and that we get a sense of proportion. That will be possible with the publication on Wednesday of PAS 9980, which allows a risk-based assessment of external walls. We will also commence the Fire Safety Act. The noble Baroness, Lady Pinnock, was a fearsome adversary during its passage. We have a good Bill. We will commence that with the building prioritisation tool. The phrase is “shortly”, but it will be a matter of a few weeks; we need to get the IT right for that.

Underpinning proportion, we need a call for innovation. If we are to have more buildings made safe not by costly remediation where people profit—let us be clear, they profit from remediation—let us make mitigation a possibility in more homes. That is why I am delighted that we are beginning to fund some innovative ideas, some of which will work and some of which will not. I mention the Intelliclad system that has been funded by the Waking Watch Relief scheme. I shall not go into exactly how that works, but it is a form of innovation that may make mitigation an option more often than remediation. We have funded that system in two buildings, the Interchange building in Croydon and the Guildhall Apartments in Southampton. If noble Lords would like to join me to visit those, it may be useful and interesting. We need more innovation such as that, so here is a call for innovation.

Protection is the second principle, as was raised by the noble Baronesses, Lady Pinnock and Lady Hayman. We announced that, essentially, we are seeking a moratorium on forfeiture, so that those who live in buildings with historic safety defects do not lose their home as a result of their landlord forfeiting the lease. We are working with government to make that happen.

Importantly, not mentioned was the Defective Premises Act 1972, on which I became an expert and talked to some of my colleagues who are construction QCs. The limitation period in that at the moment is only six years. We have extended it prospectively to 15 years but retrospectively to 30 years, which covers the vast majority

[LORD GREENHALGH]
of buildings affected by the crisis. It means that people who built rubbish are liable through law to fix that. It is very important that there is statutory underpinning, and it is an important development in terms of protecting leaseholders.

Lastly, there is more money now. During my time as Minister, £600 million was made available in the first instance, then we announced a further £1 billion for the building safety fund. Under my right honourable friend Robert Jenrick, a further £3.5 billion was announced, followed by this £4 billion under my right honourable friend the Secretary of State. We now have £9.1 billion committed towards the remediation of unsafe cladding.

Of course, questions have been raised about how we make the polluter pay. Those are legitimate, but let us just take stock of the fact that this Government have effectively declared war on the polluters. Those polluters are not just developers; they are the manufacturers of cladding systems that do not work and are flammable; they are the manufacturers of the insulation that is flammable and all those defective construction products. It is pollution in the round; it is not just developers. Even construction companies that put up very poor-quality buildings are included. Everybody who has profited from this crisis is a polluter and they must pay.

In declaring war, we have a series of measures. To use a Second World War analogy, we have bomber command with levies and taxes which mean, at a very high level, you tax. We have had announcements from the Treasury about the developers tax on companies with profits above a certain amount, which will contribute £2 billion. There is also the building safety levy. I also count within the bomber command scenario the voluntary scheme where we come to you. Over two months, we are asking people who have polluted to stump up the £4 billion to pay for the historical problems they caused.

As a backstop, we have what I would call fighter command. That means looking at all kinds of measures—this was obviously heavily leaked and I know that the Secretary of State has launched an inquiry into the leaks. We are looking at taxes or legal means to extract the money if it is not given voluntarily. That is essentially the plan. As it says in the widely trailed letter, the department is the backstop—the Department for Levelling Up, Housing and Communities, not the Treasury. The money is there, effectively, and it is now about getting it from the polluters—that is the plan.

Non-cladding costs were also raised. I would say that cladding is a large proportion of the bill. I have seen quite a few of these. When we met the cladding groups yesterday, we spoke to Sophie Bichener, a leaseholder who has a £200,000 bill. About £60,000 of that is non-cladding costs, so 60% or 70% of the bill is cladding costs. In some cases, the amounts might be equivalent, but to say cladding is an insignificant amount would be a misrepresentation. We have taken a major chunk of this by focusing on cladding, which is, after all, the major accelerant of fires.

The noble Baroness, Lady Hayman, also mentioned pace and seemed to have some interesting statistics; I hope she will share the figures which have led her to

assume that this will take until 2024 for private housing and 2026 for social housing. We have to get this done and it does take time, but I would point out that, certainly during my time, we have made progress—despite a pandemic—so that virtually every single building with the worst form of cladding has had it removed or fully remediated. There are some places, such as the 20 buildings in Southwark that we suddenly identified—the noble Lord, Lord Kennedy of Southwark, has come in right on cue—that we now have to remediate, but we have not known about those for long. It is important that we deal with the riskiest forms of cladding first, namely aluminium composite material, then deal with non-cladding costs. We committed £863 million of the initial £1 billion and, as we work through the process, there will be the further £3.5 billion for high-rises and we now have plans for medium-rises. It is a significant job of work and it would take any Government time to get it right.

Let us not rush it, however. If you rush it, you may do the remediation so poorly that you have to do it again in two years' time. Of course, we need pace, but we also need quality remediation so that, for the leaseholders and people who rent these homes, the remediation lasts a generation and not a couple of years. That is important to think about as well.

The noble Baroness, Lady Hayman, mentioned buildings of under 11 metres. I really do not see a case for costly wholesale remediation of buildings of that height—you stick in a fire alarm. A simultaneous evacuation alarm system or other mitigation measures should work. I have not seen a fire engineer make the case that you need to undertake costly remediation of low-rise buildings, but am happy to be given examples of where we think low-rise buildings need to have millions spent on them to fix the problem.

I have been told to finish in a very delicate way, but it is important that I do my best to answer the questions and set out the Government's position. I want to finish by saying that, following all my 20 years in local government—with 16 years as a councillor and council leader, four years in City Hall and now my role in this place—I of course want to work collaboratively with the Opposition, the Liberal Democrats, the Cross-Benchers, including the noble Earl, Lord Lytton, and the noble Lord, Lord Bilimoria, who is here specially and who I have known since university, and the Bishops. We will, I hope, work collaboratively to make the Building Safety Bill a better Bill and provide the protection that leaseholders in this country deserve.

7.25 pm

Lord Young of Cookham (Con): My Lords, I commend the Minister for his tireless work over the past few months, which has led to this very welcome initiative. Will he clarify two points that arose from the exchange in another place yesterday? First, when asked about costs relating to fire doors and external wall insulation, the Secretary of State said that

“the freeholders, as the ultimate owners of these buildings, will be held responsible for all the work that is required, and we will make sure that leaseholders are not on the hook.”

He then confirmed this in a subsequent reply to Matthew Offord, saying:

“It is our intention that the ultimate owner of a building is responsible for all of the safety steps that are required, and we will use statutory means in order to ensure that that happens.”—[*Official Report*, Commons, 10/1/22; col. 301.]

I read that as saying that leaseholders are protected for all safety steps, not just dealing with cladding. Secondly, while the Secretary of State repeatedly promised statutory protection for leaseholders, it is not clear what they should do about bills sitting on their mantelpiece for work completed or under way but not paid for. Do those leaseholders have statutory protection?

Lord Greenhalgh (Con): My noble friend always asks very pertinent questions and he knows this issue inside out. Rather than obfuscating this, I will give the straight answer. Of course, in protecting the leaseholders, someone else has to pay—that is the thrust of the question from my noble friend. When it comes to cladding, there is now funding in place and a plan to deliver that without touching anyone beyond the polluter, if we can get back the money put up by the taxpayer. Some leaseholders have obviously borne the brunt of the costs as well and that is regrettable. We cannot apply these protections retrospectively but, by having the reset statement issued by my right honourable friend, we can ensure that we protect many thousands—potentially hundreds of thousands—more leaseholders from being affected in the future by having those statutory protections in place.

Lord Kerslake (CB): My Lords, I declare my interest as chair of Peabody housing association. I welcome the Statement; it is a really important step forward in terms of dealing with this long-running and difficult issue. I particularly welcome the proportionate approach to building safety, the polluter pays principle and the move to end the uncertain and unfair position for leaseholders. These are all welcome, but we need to move on from the principles to delivery. This is the critical issue. Of course, the work to address the issues of building safety is already under way, particularly by housing associations. The question now is: how do we bring certainty to leaseholders? What will the approach to collaboration be here? We will make more rapid and better progress if we can have a very close, collaborative relationship with the department and the new dedicated team. I would be interested to hear how the Minister sees the process of resolving the outstanding issues that are still in front of us all working.

Lord Greenhalgh (Con): My eyesight is not the best, but I now know that those were the lovely dulcet tones of the noble Lord, Lord Kerslake. I remember that, when I was leader of Hammersmith and Fulham Council, the noble Lord visited me to discuss housing policy. He has had a long-standing interest in this area and has been a distinguished chief executive and an extremely senior civil servant in Whitehall, so he has worked at all levels of government and I know he comes from a good place. Peabody is a provider of extremely good social housing and there are great examples of that where I live. I commend the work it does. It provides housing for some of the most vulnerable people, but also people of all income streams who cannot afford market housing.

We have to work with Kate Henderson at the National Housing Federation and with the G15 associations, all of which have development arms and have built housing. We have to accept that some of the G15 associations may have built houses with unsafe material. I take the view that, if you are social developer, particularly as you have had a subsidy to do the development, and have made the same mistakes as a private developer, then the consequences should be the same. We should do that in a way that is fair and proportionate to ensure that the polluter, whoever it is, contributes to fixing the mess that they have played some part in creating. It should be collaborative; I have spent a lot of time reaching out to the National Housing Federation and different chief executives, and will continue to do so.

Baroness Neville-Rolfe (Con): My Lords, I have an interest as chair of the Built Environment Committee. I very much welcome the package of measures, although I regret the time that it has taken to get to this stage. My experience on the ground is that we need flexibility at the edges to apply common sense, so I welcome the notion of proportionality. Risk assessments by external advisers can jeopardise good businesses, as we know from the overzealous enforcement of a number of EU regulations and the disastrous EWS1s, which, if I understand it correctly, my noble friend is rightly withdrawing. Will the Government ensure that the new British Standards Institution guidance prevents the needless recrafting and remediation of buildings—especially old buildings with an old balcony or a wooden beam, which pose a low risk of fire?

Lord Greenhalgh (Con): I first praise the efforts of my noble friend in raising issues throughout my time as Building Safety Minister, and particularly for her passion about how we improve the built environment. The honest answer is that the introduction of the British Standards Institution’s Publicly Available Specification 9980 will go some way, and it will take time to ensure that we have a more proportionate approach. As I have already said in responding to questions, there is no silver bullet, but it is good to have the right direction of travel. That requires the lenders, insurers and valuers who follow valuation guidance from RICS to all take a sensible approach, and that takes time. The more we focus on proportionality and risk, as opposed to having a binary view that everything needs to be fixed in the most expensive manner possible, the closer we get to a far better place.

Lord Stunell (LD): I thank the Minister for his Statement; it is very welcome. Following on from that last point, there is a clear problem created by the insurance industry, which has made matters significantly worse. Will he have meetings with the insurance industry to guide them through the new British standard that will be published so that we do not go through another two years of overengineered responses based on an extravagant risk-based system?

Lord Greenhalgh (Con): I thank the noble Lord, who was a distinguished Minister in the very same department in which I find myself. He has been at the

[LORD GREENHALGH]

Dispatch Box in the other place and has great experience. He is absolutely right that we need to see movement from the insurance industry. I have had many meetings with the ABI. In fact, most recently, I have had a series of individual meetings with primary insurers—you get more out of a meeting when you have one of them in front of you; they speak more candidly to a Minister than if you have a group of them together. The new chair of the ABI is my noble friend Lady Morgan of Cotes, and I have engaged with her about how we can get a more sensible approach. Some of these hikes in insurance are not just 100%; they are 1,000%. The Father of the House in the other place, Sir Peter Bottomley—a distinguished parliamentarian—has raised the prospect that, if insurers are not going to be sensible about this, let us get the Competition and Markets Authority looking into some of these practices. There is carrot and stick to this, but of course I will continue, as I have been asked—in the Statement yesterday I was namechecked once—to follow up and make sure that we get a sensible and proportionate response from insurers; that is my job.

The Lord Bishop of London: My Lords, like many others, I welcome this Statement, because clearly, it is a move in the right direction. I too pay tribute to those who have campaigned with tenacity to try to resolve what is an awful situation for people's lives. I may just be slow, but I would really appreciate the Minister clarifying whether the Government will bring forward legislation in the Building Safety Bill to ensure that the polluter pays, and not the taxpayer or the leaseholder.

Lord Greenhalgh (Con): The right reverend Prelate is not being slow; if you are the Bishop of London, you have to be pretty quick. As a backstop, we have committed to look at solutions that involve tax, which is a Treasury matter—it has been very clear about that—or legal means to do these things. I am well aware of the work that has been done by Steve Day, supported by many experts, in bringing forward the polluter pays proposal. My personal view, as a humble Minister, is that we need a building-by-building assessment of liability if we are to ensure that the polluter pays. But that is down the road, and the sequence is: voluntary contributions first, and some of these other things are being positioned as backstops.

Lord Blencathra (Con): My Lords, I declare a potential interest as someone who has some wooden decking on a balcony. I congratulate my noble friend on the wonderful Statement he has made, his own personal views today, and the work he has done over the last 12 months. More particularly, will he convey to my right honourable friend the Secretary of State the thanks of millions of leaseholders for the astonishing announcement he made yesterday? I always believed that, when he was appointed, there was no one better than Michael Gove to cut through and deliver success.

I do not want the taxpayer to spend a penny on this, but I want the developers and the freeholders to do so. With regard to the backstop, I suggest that we need to hold a sword of Damocles over the developers' heads. The voluntary approach, I am afraid, will not work.

Can my noble friend therefore bring forward urgent legislation—which we pass but hold in abeyance as that sword of Damocles—to let them see that Parliament means business and that we want legislation on the statute book that we can implement at a moment's notice if they fail to deliver, rather than spend a year putting it through afterwards? I suggest that as a good tactical approach.

Lord Greenhalgh (Con): My noble friend is a very wise man. With regard to my right honourable friend the Secretary of State—having worked with the Prime Minister for four years when he was mayor, I know that he likes the odd Latin phrase—quod erat demonstrandum: he has done an amazing job coming in to reset this. Of course, there is more work to be done, but I pay tribute to him myself, and I thank my noble friend Lord Blencathra for those kind remarks. I agree with him; they are very wise words.

When we look for the polluter to pay, as in all negotiations, you need both the carrot and the stick. I will use the metaphor of the very distinguished late Archbishop Desmond Tutu: you need your moment of truth and reconciliation, where people come forward and make a voluntary contribution. That could work to a degree, and time will tell how well it works. But equally, as a backstop, you need to prepare for the moment where you go to the Nuremberg trials and look, building by building, at who caused the mess, and make sure that they pay for it. We have started that process with Operation Apex, which looked at who caused the problems in particular buildings. We are getting some specific figures. My right honourable friend got a series of forensic accountants to look at some of this stuff, and more work will be done in that regard. That is very helpful advice.

Viscount Stansgate (Lab): I thank the Minister for his comments. Yesterday's Statement by the Secretary of State was a welcome and much overdue step forward. Can the Minister tell the House a little more about a point raised by the noble Baroness, Lady Pinnock, about the way in which the Government intend to pursue freeholders and landlords who are not based in the UK but overseas?

Lord Greenhalgh (Con): Not today. But we are well aware of the practice, which goes beyond just whether they are domiciled, of using special purpose vehicles. We are looking at how we deal that issue, where the developer is known, creates an entity over there, away from the rest of the business, does the development in isolation using the funding, and then wraps it up at the end of the development. We are looking at all these issues, through law and tax. Whatever levers the Secretary of State has, he is looking to deploy them to make sure that the polluter, in the broadest sense, will pay.

The Earl of Lytton (CB): My Lords, I add my congratulations to the Minister on his untiring work here. The Statement made in another place yesterday is certainly extremely welcome. As a practising chartered surveyor and valuer, I am particularly determined to ensure that the regime where the purveyors of shoddy buildings have not been properly held to account must

stop, but I understand the immense complexity, raised by other noble Lords, to do with insurance and other matters downstream from the immediate problem.

My first and last concern is the point made, in particular, by the noble Baroness, Lady Pinnock: namely, that innocent people have devoted their life savings and invested their homemaking, their very being and their work/life balances in properties which have been found to be not constructed to safe standards. This is an appalling social and mercantile evil—let us make no bones about it.

I request that the Minister confirm that this cannot and must not be turned into a tax solution. The reasons for that will be self-evident. It would be both unfair and an unbelievably blunt instrument. It will almost certainly require hypothecation, and would merely serve to collectivise what should be an individually assessed liability; the Minister mentioned that it will be property by property.

Like the noble Lord, Lord Blencathra, I fear that there will not be a great queue at the Minister's door with open cheque books, and I suspect it will be necessary to move to plan B, because it is not just the cladding but an awful lot of other defects—

Baroness Scott of Bybrook (Con): Will the noble Earl ask his question, please? There are other people waiting.

The Earl of Lytton (CB): Does the Minister agree that the only remaining viable route that is coherent across the piece is, in effect, the polluter pays amendment, the draft of which had the scrutiny of top legal minds, such as Daniel Greenberg QC? Furthermore, does he agree that this is the only means whereby the perverse habits of what is known in the trade as value engineering will become something of the past, and in future that the inculcation of consistently good construction methods will be the lasting legacy of Grenfell?

Lord Greenhalgh (Con): The noble Earl is right that this is a crisis of epic proportions that has affected hundreds of thousands of leaseholders and has been caused over many decades. I have probably visibly aged while holding this brief, because some of the stories from leaseholders are simply harrowing. That is one reason why I am delighted that the House collectively feels that we are making a big step in the right direction.

I also agree that we should challenge some of the practices that have led to this, such as value engineering, which is essentially a way of cutting corners and trying to inflate profits, often by compromising the integrity of the building. These practices simply must stop. Making the polluter pay and doing so at the individual building level is the way to ensure that the quality of the buildings in future will be far better than what we have seen in the past 30 years in this country.

Lord Shipley (LD): My Lords, the Minister said that this may take time, but what assessment has been undertaken to unlock mortgages, which at the moment are a huge barrier to the sale of properties?

Lord Greenhalgh (Con): I am very pleased that the issue of lenders has been raised: it is one area where we need to see a greater sense of proportion. When I have spoken directly to primary insurers, they have given the undertaking that their practices are that, at the moment at which it is clear that cladding remediation costs have been found and that remediation will be undertaken, they can begin to reduce building insurance premiums. That is not the case with the banks. I have had many leaseholders come to me to say that they cannot move on with their lives because the banks are not changing their practices and are not offering mortgages, even when the remediation is locked in or even begun—it often takes about a year to do some of these projects. We will engage with lenders to say, “Can you take a more proportionate approach to risk, to ensure that people can move on with their lives?” I thank the noble Lord for raising that point.

The Lord Bishop of St Albans: My Lords, the Secretary of State announced an additional £27 million for fire alarms. Are similar grants being considered for installing sprinklers in buildings over 11 metres?

Lord Greenhalgh (Con): My Lords, I am delighted that we have heard from not just one but two Bishops, because the right reverend Prelate has been a tireless campaigner on behalf of people in St Albans and beyond. The additional £27 million comes on top of the first tranche of money, which was £30 million, so we are talking about nearly £60 million towards providing alarm systems in buildings, rather than the ridiculous practice of having “waking watch” costs month by month, which run to hundreds of thousands of pounds for leaseholders to bear. We must look at how we encourage mitigation as the solution. I am not sure—I am not a fire engineer—but sprinklers are a potential way to achieve that, particularly in low-rise buildings. We have not necessarily looked at taxpayer funding, but we will take that away and see how we can best encourage more mitigation where that is a safe and sensible end-point and ensure that we can avoid costly remediation being the preferred option, if we can make a building safe enough.

Farming Industry: Support

Question for Short Debate

7.46 pm

Asked by Lord Redesdale

To ask Her Majesty's Government what plans they have to provide support to the British farming industry to combat (1) increased production costs resulting from the ongoing labour shortages, and (2) increased competition from the Australian and New Zealand markets.

Lord Redesdale (LD): My Lords, I must start by declaring my interests as set out in the register. I thank all noble Lords taking part in this debate—however brief the time they have—and the noble Baroness, Lady Bloomfield, for taking part on behalf of the Minister who, I believe, is self-isolating with Covid.

[LORD REDESDALE]

The purpose of this debate is to raise two major issues, both of which are a result of Brexit. I know those issues were debated as part of speeches about Brexit, and the problems associated with it could be seen as an “I told you so” but that is probably not the most progressive way of looking at these issues. I was looking just at labour shortages, because both issues are enormous subjects, especially for an hour-long debate. However, the issue of free trade agreements was very live on the doorstep in North Shropshire during the recent by-election, where we managed to return the most excellent Helen Morgan as the MP. It is an issue that the farming community takes very seriously. The purpose of linking those two issues together is to look at the short-term issues that the industry faces, but also the longer-term issues raised.

Obviously, we are in a period of transition where we are moving from the CAP which, for all its faults—having debated it many times, I know that there were many—gave farmers an underlying, sustainable subsidy regime for the financial models on which they could base their business. The issue at the moment is that the Government are formulating policies to replace that subsidy regime. I ask a question which is asked many times: is it the Government’s intention to maintain the current farm payments until the new Brexit support scheme is rolled out in full and in place? Is there any basis in the reports that farmers could lose half their money in the next four years, because that would drive thousands of family farms out of business? Any information the Minister can give on that would be very helpful.

Looking at the different issues, I start with labour shortages. This is a Brexit issue, because British agriculture was particularly reliant on the freedom of movement of EU workers before Brexit and, to meet our needs, will continue to be after Brexit. Almost all the 70,000 seasonal workers in fruit picking and vegetable harvesting were from eastern Europe in 2017, according to the National Farmers’ Union, and in 2018, a report by the Migration Advisory Committee said that 99% of seasonal agricultural workers were from EU countries. The present position across the whole of the agriculture and food sector is that there are about half a million job vacancies, which is of course causing major problems.

For the horticultural sector, this shortage of workers means that some crops remain unpicked. Apparently, in June this year, 30% of daffodils were unable to be harvested or were picked later than planned due to labour shortages. Some produce is also being left in storage for longer. For the poultry sector, it means that production has had to be cut back. There is a particular need for flowers and fruits in the ornamental sector to be included in this debate because they are often overlooked.

Looking at the meat sector, some abattoirs are operating shorter weeks. Meat processing plants are also struggling to recruit, with knock-on effects throughout the food chain. The situation is being worsened because of the shortage of lorry drivers, which means that, even when a product is available, it cannot always reach its destination. Recently, I heard of a situation where there is a problem because larger companies are

prepared to pay more for lorry drivers; this has a knock-on effect on smaller companies, which cannot afford the higher wages.

The chronic staff shortages in the supply chain mean that all businesses—farmers, growers, wholesalers and manufacturers—are having to offer incentives to retain and recruit staff, raising costs throughout the sector. Of course, this problem has been exacerbated for a number of reasons, such as Covid-related travel restrictions, self-isolation rules and EU nationals returning home to be with their families. However, it is also based on the UK’s new points-based immigration system, which coincides with the free movement of EU citizens ending because of Brexit. In the UK, as with many developed countries, seasonal work has relied on migrant labour; that is not likely to change in the short term.

I always find it funny that people call pickers unskilled labour. If you look at the difference between migrant labourers who know what they are doing and those people who are learning, there can be a massive difference in the amount that they can undertake during the day. Despite help from the Department for Work and Pensions through its matchmaker scheme, which linked growers to Jobcentre Plus offices, growers have struggled to recruit UK workers. There are negative perceptions of the sector and UK workers are often not attracted to seasonal work because travelling to rural locations is difficult and costly; it often requires living on farms; and the work can be irregular and is often temporary, which is a major setback.

Short-term solutions could include the introduction of a 12-month Covid recovery visa. This would enable all involved in the supply chain to recruit to critical roles and significantly reduce the labour shortages currently being faced. It would alleviate the pressure on the sector and give it the time it needs to continue to recruit and train domestic staff. The NFU has also called for permanent seasonal workers schemes for the UK horticulture industry and a seasonal workers scheme for the poultry sector. These would enable farmers to plan and create stability in the supply chain.

Longer-term asks promoted by the NFU include the agricultural sector being promoted as a career choice and reversing the negative perception of many of the job roles in the industry. This should include having a co-ordinated approach to skills and training. Relevant food and drink courses should be added to the list of level 3 adult courses eligible for the £95 million lifetime skills guarantee. This would help to bridge the widening skills gap with overseas workers while working to attract and train home-grown workers. The Government’s youth mobility scheme could also be extended to cover European and other relevant countries, such as Ukraine. This would enable some flexibility in the labour market to meet the demand for roles that do not meet the criteria for the skilled worker’s role.

Another idea could be to look at greater flexibility in how the apprenticeship levy can be used to enable businesses to train and upskill staff. Of course, the simplest thing, however, would be to look at a change in the immigration policy, because I think that there has been a change in people’s view of immigration. It is not as much of a concern as it was in the run-up to Brexit.

The two other issues are the Australia and New Zealand free trade agreements. There has been concern across the industry that, in the move to sign up to these agreements as quickly as possible, the needs of the agricultural industry have been set aside because exports to this country from Australia and New Zealand are of course heavily predominated by lamb and beef products. Although there is a 15-year period over which this transition could take place, it seems that the amount involved will put added pressure on the sheep and beef sector in this country. However, in looking at some of the trade that New Zealand is undertaking, I was interested to see that a lot of it will be diverted to China and the Pacific countries as they get a taste for lamb in particular.

I will end with one point highlighting the degree of anxiety that these issues are causing; of course, I have not even started on the major problem of energy prices. I read in the oral evidence given to the Select Committee in another place on 26 October last year a line in which Tom Bradshaw, vice-president of the NFU, summed up the fear that many in the industry feel. He said:

“I have never seen the industry in the position it is in at the moment and the real lack of confidence is crippling the sector.”

7.56 pm

Lord Lilley (Con): I declare an interest as the former MP for Harpenden, where the Rothamsted Research Institute is.

When your Lordships' House discusses agriculture, it is converted into a TARDIS, transporting us back in time to the Corn Law debates of the 19th century—debates then, as now, dominated by landowners advocating for protection and high food prices and supported by bourgeois romantics who oppose industrialisation and progress; their modern counterparts are the Greens. Both are indifferent to the impact of higher food prices on those poorer than themselves. I hope that I will not be the only one to speak up for consumers today.

The only way to combine prosperous agriculture with abundant, low-cost food is for farming to be competitive. Nothing promotes competitiveness like competition, which means phasing out protections and subsidies. Can UK farming become competitive without protection? Much of it already is. The world record yield for wheat changes hands between farms in Northumberland—the county of the noble Lord, Lord Redesdale—and New Zealand, both far higher than the best producers in Canada, the US or Russia.

New Zealand agriculture, which this Motion sees as a threat, was losing competitiveness until it abolished all protective tariffs and subsidies. The NFU brief for this debate claims that New Zealand's costs are between one-quarter and two-thirds lower than the UK's but it ignores the subsidies that UK farmers receive, which are equal to 40% of their costs. It also ignores the cost of transporting New Zealand products half way round the globe.

Improved UK competitiveness will come not just from the long tail of less efficient farmers adopting the efficient methods of the best. As well as reducing time-consuming EU regulations, Brexit should mean that British farmers can apply modern scientific methods banned by the EU—often developed at Rothamsted—

such as CRISPR and GM, which will boost yields and reduce the use of costly and environmentally unfriendly pesticides, herbicides and fertilisers. The main losers from opening up our market to our Antipodean friends will be not UK farmers but inefficient European farmers, who currently supply nearly half our food. The winners will be more efficient British farmers and hard-pressed British consumers.

7.59 pm

Lord Whitty (Lab): My Lords, two minutes: three points. First, on labour costs, the fact of the matter is that British farming is going to have to accept that it will have to pay its workers more. As the noble Lord, Lord Redesdale, said, we have relied for too long on immigrant and migrant labour to undercut British workers. We need a proper skills base to address the kind of mechanisation and technological improvement referred to by the noble Lord, Lord Lilley. We need better training. Unfortunately, the underfunding and overdiversification of Lantra and our agricultural colleges have meant that new people who are skilled enough to take up posts as farm workers or managers are not coming through. I hope that the Government will recognise this problem and set up a manpower board for land skills that truly delivers a new generation of a skilled workforce working in this new era.

On trade, I disagree with the noble Lord, Lord Lilley. We are placed in a very difficult situation: just at the point where subsidies are being reduced and costs increased, we sign a deal which goes against the commitments made by the Government during the passage of the Agriculture Act. I can only quote the words—approvingly, in this case—of the president of the NFU when she said:

“We always wanted to do a deal with Australia. But we never thought that it would be a deal where we just gave the most prized food market in the world over for nothing.”

That is the problem with the deals being reached now.

Thirdly, on policy itself, there is a central problem. I agreed with the greening of agricultural policy in the Agriculture Act, but it has proved to be very slow and complex to deliver. To judge by the words of George Eustice last week, the problem is that the Government are focusing not on making agricultural and food production more sustainable but removing large chunks of land from food production for other purposes. That is the wrong emphasis. Both have to happen, but we need to find more sustainable, effective and advanced methods of producing our own British food.

8.01 pm

Lord Bilimoria (CB): My Lords, I am proud to chair the Manufacturing Commission of which Jack Dromey was vice-chair, and I pay tribute to him. He was outstanding. I thank the noble Lord, Lord Redesdale, for initiating this debate, and I declare my interests right up front as the manufacturer of Cobra Beer, manufactured using the finest British malted barley, and Malabar Blond IPA—India pale ale—produced using the finest British hops.

I am so proud of our British farming industry, and I pay tribute to the NFU, which is a member of the CBI, of which I am president. In fact, the NFU

[LORD BILIMORIA]

identified in a report last year that there is an estimated workforce shortage of 500,000 across the food and farming sector, including hospitality and haulage. In June last year, the CBI and I pointed out—including on the Floor of this House—labour shortages, for example among lorry drivers and butchers. The Government did not listen. By October last year, healthy pigs had to be culled at farms rather than being sent to slaughter. This was the first time that pigs were mass culled since the 2001 foot and mouth outbreak. The Government eventually issued temporary visas for 800 pork butchers, which were available until the end of 2021. Will the Government extend this? The Government also eventually announced temporary visas for 5,500 poultry workers and 4,700 HGV drivers. The HGV driver visas expire on 28 February, and the poultry worker visas expired on 31 December. Will the Government extend these?

Why do the Government not reform the Migration Advisory Committee, including academics, economists and businesspeople, to give it the independence of the Low Pay Commission, which sets the minimum wage that the Government have to follow, or the Monetary Policy Committee, which sets interest rates that the Bank of England has to follow? This reformed MAC could, on a regular basis—quarter by quarter—activate the shortage occupation list sector by sector, prescribing the number of jobs and the length of the visas. This would give our economy, including our farming, food and drink sector, the workforce that it needs, instead of crippling it with self-inflicted labour shortages and shooting ourselves and our economy in the foot.

8.03 pm

Lord Colgrain (Con): My Lords, Kent is the garden of England. Its fruit and vegetable growers are market leaders and are now being joined by English wine growers in being held in increasingly high esteem. All these producers are being crippled by the restrictions of the seasonal workers scheme.

It is missing the point to say that English workers can fill the void. They cannot, as has been ably demonstrated by the training schemes of the like of the admirable Thanet Earth organisation, where after good teaching and with good pay prospects, English trainees wither on the vine and fail to stay the course. Mechanisation and automation are also not the panacea they are made out to be—at least not for a few years yet. Can the noble Baroness try to apply further pressure to ensure that the numbers in the seasonal workers scheme can be increased? Without the provision of more pickers, many of our admirable market-leading producers will be unwilling to invest and will cease to be competitive.

In my view, the Australian trade deal will prove to be most unhelpful for British beef producers. When, according to the NFU, the cost of Australian beef production is around two and a half times less than for the UK, it is not surprising that the Australian trade negotiators could not believe how easily the British Government were rolled over in their eagerness to get one run on the new trade deals scoreboard. The 10-year implementation period will allow the mist of time to descend to disguise how awkward this trade deal will be for all future British Governments.

The recent decision by Asda to suspend the purchase of British beef in favour of Irish—a quick-turnaround decision made on cost alone—shows how exposed the industry is to cost pressures. Can the Minister give any assurance that the same high standards of animal welfare, environmental protection demands and haulage time limitations, all of which are being imposed on and willingly met by British producers, will be monitored and adhered to in Australia and New Zealand? What power of sanction can she realistically suggest that the Government of the day will have to exercise should any such failings be identified?

8.06 pm

Lord Hendy (Lab): My Lords, my noble friend Lord Whitty is right: the ongoing labour shortages in agriculture are caused by low wages and bad terms and conditions. The problem has dogged agriculture for years. Hitherto, the sector has been sustained by cheap European labour, which the government visa scheme will now extend. The use of foreign labour has been dependent on single persons whose families remain abroad and who therefore do not need to pay British family costs and are prepared to put up with non-family accommodation.

In 1924, the problem of low wages was addressed by the Agricultural Wages (Regulation) Act, which established agricultural wages boards, AWBs, which set wages by collective bargaining. The resulting annual agreements were binding by law on all agricultural employers and workers. The AWB for England and Wales was abolished in October 2013, though Scotland retained its board. The Welsh Government established their own, facing down a challenge in the Supreme Court in doing so. Now the Northern Irish board is under threat.

The AWBs set different rates reflecting skills and experience, thus offering something of a career progression—essential to attract youngsters into farm work. There were enhanced rates for overtime, weekend and night work, and fallback rates for waiting and travelling time. Housing costs were regulated and, underlying it all, workers had a say in their terms and conditions. Clearly, the AWB for England should be reinstated.

Small farmers operate on small margins, of course, but it was not they who sought abolition; it was the supermarkets. The brutal truth is that food is too cheap, and consumers too deserve higher wages. As the TUC general secretary said in a new year message:

“Britain needs a pay rise.”

The Government’s goal of a high-wage, high-productivity economy should start with agricultural workers.

8.08 pm

Baroness McIntosh of Pickering (Con): My Lords, I congratulate the noble Lord, Lord Redesdale, on securing this debate and refer to my interests in the register.

A common strand to all the northern dales, whether Northumbria, Cumbria, Durham or North Yorkshire, is the sheer number of family farms. In North Yorkshire in particular, almost 50% are tenant farmers.

I take issue with my noble friend Lord Lilley. I argue: where is the level playing field? How can it be right that we are imposing higher costs of production in the stringent animal welfare and environmental criteria that our livestock farmers have to meet, yet are going to accept meat produced to a lower standard from Australia and New Zealand? That simply cannot be right, and I ask my noble friend and the Government to look very closely at that.

Also it cannot be right that the Animal Welfare (Kept Animals) Bill, if my understanding is correct, will outlaw the sale of live animals, particularly the sale of spring lambs to France, which is an outlet that is highly regulated and limited in nature but a source of income to northern farmers. What understanding can my noble friend the Minister and the Government display of livestock farming production? Can she say this evening with clarity what the schemes that replace those under the CAP will contain? Will she endeavour immediately to make the forms simpler at the point of sale at livestock marts, and can she tell us precisely how livestock farmers, particularly small family farms and tenant farmers, will benefit from the new schemes? My wish list this evening is: simpler forms at the point of sale; clarity of the new schemes; and affordable homes for farmers to retire to.

8.10 pm

Baroness Harris of Richmond (LD) [V]: My Lords, I am sure we will hear from the Minister how Defra will take our farmers to the sunny uplands during the agricultural transition plan rollout and move us as far away as possible from the European Union and its hated farming policies, but in my part of the world, up in north Yorkshire where we have more sheep than people, there is considerable anxiety about just how effective the Government's model is going to be.

Most of us would not argue against the environmental land management scheme as being a good thing—nor would we argue about giving grants to improve productivity, especially around animal welfare and that catch-all word “sustainability”. But the questions farmers here are asking are, when negotiating the Australian trade deal, did the Government calculate what impact importing meat might have on UK meat producers? Sheep farming is a mainstay of farming in the Yorkshire Dales. In relation to the stated aims of maintaining our landscape for tourism, leisure and encouraging wildlife, are the Government simply relying on making payments to keep the landscape as it is now, without considering how best to support and maintain the market for sheepmeat? Will sheepmeat imports be subject to the same production standards as meat from farms in Yorkshire? If not, what steps will the Government take to compensate Yorkshire farmers?

Basic payments have accounted for around 60% of profits for farmers over the last five years; they urgently need to know how that will be replaced. A plethora of complicated new schemes is being offered, one of which might mean that farmers decide to sell off land and move to producing renewable energy. One firm has already signed up more than 500 additional renewable sites, 80% of which are on UK farmland. Indeed, one is proposed on a contentious site close to my town's

boundaries. Farmers complained bitterly of the huge amount of paperwork and form-filling when we were members of the EU; will they not be hit by even more of it now that we have “taken back control”?

8.13 pm

Lord Harlech (Con): My Lords, I draw your Lordships' attention to my interests as set out in the register. In general, I support closer ties with Australia and New Zealand, as well as the wider Commonwealth. There are many sectors where a free trade agreement will benefit British businesses. I commend the Government for their bold regenerative agriculture aims, encapsulated by the new environmental land management schemes. However, I agree with the noble Lord, Lord Lilley, that this free trade deal comes at a time when British farmers are already facing immense challenges following Brexit and are about to embark on the biggest changes in agricultural practice and funding for decades.

The Government's own impact assessment showed that, although the deal will be of marginal benefit to the UK economy overall, agri-food sectors will be significantly worse off over the same period. Gross value added in agriculture and semi-processed foods will decrease by approximately £94 million and £225 million respectively, compared to 2019 levels. The amount of beef and lamb allowed into the UK in the first year of the agreement is 60 times larger than the volumes currently imported from Australia, so the so-called protective tariffs will not kick in until it is too late. To swamp domestic markets with cheap imports at such a pivotal moment for our farmers is, I fear, reckless. As we saw with fishing, farming is more than just cold, hard, economics. It means landscape, community and livelihoods. Do we really want to risk putting small family farms out of business for such miniscule potential GDP growth?

British produce has the highest environmental and welfare standards in the world, something we should be incredibly proud of. At a time when consumers want sustainable produce with as few miles as possible between farm and fork, should we really be importing inferior products from the other side of the world when there is such a colossal economic risk to our own farmers? I urge the Government to look again at the agricultural clauses within the deal and do what is necessary to back British farmers.

8.15 pm

Baroness Boycott (CB): My Lords, in June 2021 when the UK and Australia signed the agreement in principle, a former Australian trade negotiator said:

“I don't think we have ever done as well as this. Getting rid of all tariffs and quotas forever is virtually unprecedented.”

So, what are we getting in return? Animal welfare standards are low. Australia permits practices such as mulesing and allows the use of antibiotics as growth promoters. Climate policy in Australia is a joke; Australia ranks bottom out of 193 countries. It also permits the use of double the number of highly hazardous pesticides that we do in this country, and has no set period for reviewing pesticides approvals.

It is well known that the British public do not want these low standards. A recent survey by *Which?* found that maintaining food standards in trade deals remains

[BARONESS BOYCOTT]

a top concern for 91% of consumers. So, what should we do? The Government must not let this zero-tariff, zero-quota deal become a blue print for deals with even larger nations like Brazil and the US. They need to accept the recommendations of the Trade and Agriculture Commission, the National Food Strategy and the Committee on Climate Change to bring forward core standards.

The Government should also support British farmers by buying more, higher-standard and higher-welfare produce for the public sector. Each year we spend £2.4 billion on food for schools, hospitals and the Armed Forces; if this were made a legal standard, it would make up a bit for the £94 million that our farmers are expected to lose as a result of this deal, which will increase our GDP by between 0.01% and 0.02%.

Finally, the Government have formally commissioned the Trade and Agriculture Commission to look at the impact of this deal on animal and plant health. Can the Minister confirm to the House tonight that the human health impacts will now be assessed by the FSA, and can she assure the House that that organisation will be adequately resourced to take forward this new and large responsibility?

8.17 pm

The Earl of Leicester (Con): My Lords, I refer to my farming interests as listed in the register. Many noble Lords have highlighted the short-term problems of increased production costs resulting from the ongoing labour shortages. I add my support to those statements but will not dwell on them, other than to confirm that they exist and that all farm businesses are suffering as a result.

In the long term, if the Government really are going to support the UK farming industry and help it to become world-beating, they must improve the teaching of agriculture in colleges and universities. It is poor and outdated and has, for example, barely started to address regenerative agriculture. We have a fantastic, keen new apprentice in our farming business. He has been with us since September, but he is not the first to have become demoralised with the three days per week that he spends at Easton College as part of his apprenticeship. The agricultural colleges are tired. Their principles of education are based on very traditional systems and practices; they have been more a way of life for farmers' sons and daughters. Agriculture must attract students from outside the industry. It needs to stimulate and inspire in similar ways to other industries. Three of the four most recent tractor drivers we have employed have degrees from Russell Group universities, and two are not from an agricultural background.

John Deere estimates that 80% of combine harvester operators have little idea of the full capabilities of their combines. This leads me to my second point: that the general low-skilled labour demand could and should be replaced in the long term by technology. This would be one way of making farming attractive to an intelligent and ambitious workforce. Also, government must invest in long-term research, by which I mean more than the normal three-year projects, and must encourage a meeting of minds between academics—the scientists—and practitioners—the farmers.

8.19 pm

Baroness Bennett of Manor Castle (GP): My Lords, I thank the noble Lord, Lord Redesdale, for securing this debate. It is a delight to speak after the noble Baroness, Lady Boycott; she said many of the things I was going to say, so I have done a quick rejig.

I start with the words of Minette Batters, the NFU president, at the Oxford Farming Conference a week ago: “We have trade policy here and we have agricultural policy here—they are a million miles apart”. We are well used to a lack of joined-up government, but this is a truly extreme example not of failure to join up but of absolute contradiction in government policy.

I will focus on Australia, for reasons made obvious by my accent. Building on the points of the noble Baroness, Lady Boycott, the use of antibiotics as growth promotants poses a huge risk to antimicrobial resistance—it is a risk to our medicine. There are only voluntary guidelines for stocking density of broiler chickens and laying hens. For carbon emissions, Australian beef is 1.5 times as bad as British beef. Tree cover and biodiversity destruction is 180 times higher in Australia than it is in the UK. I have much experience of Australian agriculture. I have mustered paddocks—fields, sort of—of 10,000 hectares; sheep or cattle run on them and are mustered two or three times a year. How will your Yorkshire Dales farmer, who calls a vet every time an animal gets ill, compete with that?

The noble Lord, Lord Lilley, suggests that this debate takes us back to the 19th-century corn law debates. He is certainly going back to 19th-century ideas about food and farming systems. Those of us seeking to improve the health of our food—to have high animal welfare and environmental standards—speak for the citizens of the 21st century.

8.21 pm

Lord Carrington (CB): My Lords, I declare my interests as a farmer, as set out in the register. I thank the noble Lord, Lord Redesdale, for this debate. The support called for should not be a return to the subsidies we have just abolished but the establishment of a level playing field on trade, together with a food and farming strategy to promote productivity and develop export markets. Other noble Lords have covered every aspect of the labour issues and trade deals, and I will avoid repetition. In the seconds available, I will concentrate on the overall context in which these farming issues arise and what a huge number of farmers, faced with so much policy uncertainty, are thinking, so that we can identify a sensible way forward.

First, farmers still do not know enough about the financial viability of government schemes as they pertain to their circumstances. Secondly, they are fully aware that current government support is guaranteed only for the life of this Government. Thirdly, they know that, although we produce the best food in the world, most customers buy according to price, not quality. Fourthly, they know that options such as planting trees, rewilding or selling carbon credits are difficult to reverse. Fifthly, they know that, from a financial return standpoint, covering their farms with houses and other fixed assets is unbeatable. It is therefore unsurprising if there is limited appetite for government schemes.

However, clarity on government food and farming policy would make a huge difference, so that there is an agreed land use framework that encompasses food production for our security. Can the noble Baroness, Lady Bloomfield, tell us what sort of level of domestic food production the Government envisage? Will farmland be protected under a land use strategy? What risk assessments have been done on the production of domestic food with the full implementation of the Agriculture Act? When this is clear, together with the labour and trade policies, farmers can sensibly plan for the future.

8.24 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, my noble friend Lord Redesdale has set out his case fully. Moving the payment of farmers from a purely land-based formula is the right way forward. However, some of the Government's schemes and initiatives for future farming funding lack detail and are being trickled out slowly. This is not providing the necessary reassurance that farmers need to secure their businesses into the future.

This, coupled with the New Zealand and Australian trade deals, is causing anxiety and stress to our farming businesses. My noble friend Lady Harris of Richmond already indicated that Australian meat imports will have an effect on UK producers. The Government have negotiated a shoddy deal that could see our markets flooded with cheaper, lower-quality imports. Ministers now need to come clean about the impact of this deal on local farmers, with particular reference to labour shortages, seasonal workers and supply chains, as raised by several noble Lords.

New Zealand controls 30% of the global dairy market and its farmers can produce lamb and beef at a cost 63% lower than UK farmers can. Australian farmers are similarly advantaged by the sheer scale of the country and their ability to mass-produce. Fears are growing that family farmers are being sold down the river, after the Government's own impact assessment found that the Australian deal will cost £94 million to the farming industry. The noble Lord, Lord Harlech, referred to this. Is this really what the Government intended when they negotiated Brexit and wanted to engage in trade deals with the world outside the EU? Was it to undercut our own farmers and to import an inferior product that is not produced to the same high standards we enjoy here and whose animal welfare policies fall a long way short of our own?

Many Peers have asked critical questions, including the noble Earl, Lord Leicester, and the noble Baronesses, Lady Boycott and Lady Bennett of Manor Castle. I look forward to the Minister's response.

8.26 pm

Baroness Jones of Whitchurch (Lab): My Lords, I thank the noble Lord, Lord Redesdale, and all noble Lords who have spoken in this debate. I declare an interest through my involvement at Rothamsted.

Last year, we supported the NFU's powerful campaign for Britain's high animal welfare and food standards to be protected by law in the Agriculture Bill. Sadly, the Government rejected that call. Instead, the compromise

Trade and Agriculture Commission can comment on trade deals only retrospectively, when the deal has been done, rather than being a partner in the process, which is what we proposed.

As a result, we have an Australian deal that would increase beef exports to the UK by more than 60 times their 2020 levels, despite Australia's notoriously poor environmental standards and use of substances banned in the UK, as noble Lords described. New Zealand's lamb production costs are 63% lower than the UK's, giving it a huge trade advantage.

The winners in these trade deals are the huge farms and megacorporations of Australia and New Zealand. The losers are British farmers, in particular those who run small family farms. Add into this mix the current labour shortages in the food supply chain and you can understand why many farmers feel let down by this Government. As Neil Parish, the Conservative chair of the Commons environment committee, said recently:

"We are seeing our industry slowly being destroyed".

I ask the Minister: is it true that Priti Patel refused to meet the NFU to discuss the labour shortages? Does the Minister agree with many noble Lords that we need to resolve this shortage on a long-term basis? Does she agree with the NFU and the Opposition that we should maintain Britain's self-sufficiency in food production at a minimum of 60%? Does she agree that the Department for International Trade should put our high-quality standards and great British produce at the forefront of future trade deals, rather than as an afterthought, which is currently the case?

8.29 pm

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, I congratulate the noble Lord, Lord Redesdale, on securing this important and timely debate, and welcome the opportunity to respond on our plans to support the British farming industry. I am grateful for the many thoughtful contributions to today's debate, and I will try to respond to many of the key points raised. However, given the time pressures, I may need to write to noble Lords after reviewing *Hansard*.

This Government are committed to ensuring that our food system is built on a sustainable and resilient farming sector, so that we and future generations can continue to access good, healthy and sustainable food. Thanks to the contributions of the 4 million people employed within the sector, we can proudly say that the British agri-food industry contributes about £130 billion to our economy, with the value of UK food and drink exports reaching £23.6 billion in 2019. Our high-quality produce and high standards mean that we can boast a world-class reputation for food and drink, at home and abroad.

However, we must acknowledge that this has been a particularly challenging time for many within the agri-food sector. The unforeseen disruption caused by Covid-19 and EU exit mean that pressures have been felt widely across the sector. We are more than aware of how this has impacted the supply of seasonal labour from overseas to our agri-food sectors. We hope that some of these agricultural workers may still have settled status and have returned home to family but may come back to the UK once the pandemic is over.

[BARONESS BLOOMFIELD OF HINTON WALDRIST]

This Government have worked alongside industry to ensure that our sectors are appropriately supported and have put in place a range of measures to help alleviate the challenges that they have faced. Our short-term mitigation measures have included, if not exactly a Covid-recovery visa, introducing emergency temporary visa solutions, and a package of measures to help the British pork sector. Most recently, we announced that the seasonal worker visa route will be extended to 2024 to allow overseas workers to come to the UK for up to six months to harvest both edible and, as the noble Lord, Lord Redesdale, observed, ornamental crops. I can only hope that all the daffodils will be harvested in time for St David's Day.

The noble Lord, Lord Redesdale, also asked whether the Government would support a permanent seasonal worker scheme for the UK horticultural industry. We will continue to assess the seasonal workforce needs for the horticulture and other sectors, such as the seasonal worker route, recently agreed with the Home Office, as 2022 to 2024 progresses; 30,000 visas will be available and this will be kept under review, with the potential to increase by 10,000 visas if necessary. The noble Lord also made a number of other constructive suggestions, including apprenticeships, which the department will now note.

Education was of great concern to the noble Lords, Lord Redesdale, Lord Hendy and Lord Whitty. The "free courses for jobs" offer, launched in April 2021, gives all adults the chance to access their first level 3 qualification for free. There are over 400 qualifications on offer, including qualifications which can lead to employment in the food and drink industries, such as food technology, hospitality, catering, agriculture and land management. The list of qualifications is kept under review to ensure that it adapts to the changing needs of the economy.

A number of noble Lords, including my noble friend Lord Leicester and the noble Lords, Lord Hendy and Lord Whitty, repeated the concern that the education on offer was not of the standard needed to take this industry into the next phase. The Government are contributing towards the establishment of a new professional body, the institute for agriculture and horticulture. This initiative is aimed at removing the fragmentation that exists in the current learning and skills landscape for farming businesses, enabling the industry to drive forward greater uptake of skills. The institute will drive improvements in industry capability which will cover the skill sets required to deliver future environmental land management objectives, including water and air quality, soil husbandry, woodland restoration and management, agroforestry and biodiversity.

It is through our continued engagement that food supply chains were successfully maintained through these challenging times, and we have managed to protect our farmers from the worst price impacts of labour shortages. To answer my noble friend Lord Colgrain, Defra will continue to work closely with the Home Office on the issue of visas. However, most food sectors are accustomed to fluctuations in supply chain costs, and Defra's extensive work in this space has reinforced the long-standing view that the most effective response to food supply disruption is industry-led,

with appropriate support and enablement from the Government. No better is the resilience of our food supply chain illustrated than through the recent publication of the UK's first *Food Security Report*. I assure the noble Baroness, Lady Boycott, that Ministers meet regularly with the FSA to monitor and discuss its resource needs.

I hope that my noble friend Lord Harlech will be reassured that the report shows that our self-sufficiency ratio is about 60% overall, though much higher for produce suited to our landscape and soils, such as some brassicas, including carrots and cabbage, and beef, poultry, milk and grain, to name but a few.

The noble Lord, Lord Redesdale, and a number of other noble Lords, raised the real issue of the increased costs faced by farmers. I agree that it is, to some extent, a perfect storm. We are very well aware of this and know that farmers are facing worrying times. We are monitoring the situation and working closely with farmers to endeavour to come up with solutions. Sadly, some of the factors contributing to cost increases are beyond our control, such as Russia restricting exports of natural gas and China of urea, and the escalation of wholesale energy prices. But the market may drive producers to look at biofertilisers, for example, or fewer applications for fertilisers. This could be seen as the beginning of an opportunity.

We want to continue supporting farmers and to work hand in hand with them on our plans for a renewed, efficient agricultural sector, including many of the suggestions made in the excellent speech made by my noble friend Lord Lilley. Now that we have left the European Union, the way we support farmers is transforming. As set out in the agricultural transition plan in November 2020, we plan to gradually reduce and stop untargeted direct payments and invest the money freed to pay farmers to improve the environment, improve animal health and welfare, and reduce emissions.

The noble Lords, Lord Redesdale and Lord Whitty, both worried about the reduction in farm incomes as farm payments are phased out, but the agricultural transition is over seven years from 2021 to 2028, giving farmers time to adapt. Direct payment reductions are proportionate, with large landowners taking the biggest cuts. As they go down gradually, new schemes will be introduced in parallel.

In answer to my noble friend Lady McIntosh's plea for simpler forms and clarity, I will reinforce her message, but we codesign the ELM schemes with farmers to ensure that the applications are farming-friendly and that it is easier to understand all the available grants. As to her plea for livestock farmers, as part of our future farming schemes, the introduction of the animal health and welfare pathway will improve the health of our national herd, reduce the need for vets and medication, reduce the effect on the environment and underpin our international reputation for good health and welfare, bolstering our export opportunities.

As announced by the Secretary of State at the CLA conference in December 2021, the sustainable farming incentive sets out how, within a few years, we want all farmers to view producing environmental and climate change benefits as an integral part of their business, alongside food production. I am grateful for my noble friend Lord Harlech's support.

Similarly, we will also provide significant grants that will help farmers to reduce costs, stay competitive and improve their profitability. Last October, we announced the opening of applications for the first three competitions in the new industry-led R&D partnership fund—R&D that will boost the productivity and prosperity of England's agricultural and horticultural sectors and enable more farmers and agri-food businesses to become involved in agricultural R&D. This will maximise the impact of investment in innovation and improve the take-up of novel approaches on farms.

The noble Lord, Lord Carrington, asked about our food self-sufficiency. Our *Food Security Report* shows that our self-sufficiency ratio is about 60% overall, although it is much higher for produce suited to our landscape and soils. By combining efficient farming systems with leading environmental and animal welfare standards, we can make sure that British producers play their part in feeding the UK and the world, and reduce the risk of offshoring production and environmental harms to other parts of the world. We can embrace a way of farming that makes space for nature, halting species decline, reducing greenhouse gas emissions, protecting soils and improving water quality.

My noble friend Lady McIntosh of Pickering also raised housing and tenant farmers. As part of the development of our new schemes, we have considered the needs of tenants and worked closely with a number of organisations, including the Tenant Farmers Association. I believe that she had a recent meeting with the Minister and the Tenant Farmers Association. We are looking into the problem raised about access, and will work with these organisations and other stakeholders to understand whether there is anything that we need to do to ensure that tenants are not excluded from these schemes.

I will now cover the hugely important aspect of trade, which many noble Lords clearly have many worries about and have spoken about. As mentioned, British food and drink has a world-class reputation. This Government are committed to encouraging people, both at home and abroad, to buy British. I point out that 81% of beef sold in the UK is British, and every Aldi, Budgens, Co-op, Lidl, M&S, Waitrose and Morrisons stocks only British beef.

We will help our farmers capitalise on the enormous global demand for British food and drink. In November, we launched a refreshed export strategy on tackling trade barriers, opening new markets and providing the services that our exporters need to compete in global markets. As a newly independent trading nation, we are pursuing new opportunities for British farmers previously denied to us.

I fear that I do not recognise the rather gloomy portrayal of the Australia trade deal, as illustrated by my noble friend Lord Harlech, as being of marginal benefit. The deal is expected to unlock an estimated £10.4 billion of additional trade.

This is about not just free trade agreements but the removal of various barriers to exports. For example, just before Christmas, the US lifted its export ban on lamb from the UK, paving the way for our farmers to start exporting some of the finest lamb in the world into US markets for the first time in two decades. This

follows on from the opening of US beef markets to UK exports in 2020, which the industry estimates will be worth £66 million over five years.

I recognise that concerns have been expressed about the impact of new trade deals on our farming and food sectors. I would like to reassure noble Lords that our recent agreement with Australia, as will be the case with New Zealand and indeed any future partner, does not compromise our high standards. The agreement with Australia does not create any new permissions or authorisations for imports. All products imported into the UK will have to comply with our import requirements, as they do now.

Furthermore, we have secured a comprehensive partnership to work with Australia on animal welfare. The non-regression clause on animal welfare that we have secured with Australia is the first in a free trade agreement and will help demonstrate that both countries are committed not to lower their animal welfare standards in a manner that impacts trade. The UK has also secured the exclusion of pork, chicken and eggs from tariff liberalisation, reflecting the importance of animal welfare to the UK and the level of trade between Australia and the UK in these products.

Let me also take the opportunity to alleviate the concerns of some colleagues regarding meat imports from Australia. Strong demand from the Asia-Pacific region will continue to attract Australian supply. In 2020, more than 75% of Australian beef exports, and more than 70% of sheepmeat, were exported to these markets. Moreover, increased imports from Australia are more likely primarily to displace imports to us from the EU—the origin of roughly 230,000 tonnes of our beef imports in 2020—than to hurt UK farmers.

We have also secured a range of measures to safeguard our farmers. The first is the tariff rate quota, which lasts up to 10 years, depending on the product, and automatically applies higher tariffs to imports above a certain volume threshold. The second, from year 11 to year 15, is known as the product-specific safeguard and applies to beef and sheepmeat. Additionally, if volume thresholds under the tariff rate quotas or product-specific safeguards for sheepmeat are consistently filled, the UK can periodically reduce the volume thresholds of the quotas or safeguards by 25%.

The final measure, a general bilateral safeguard mechanism, will provide a temporary safety net for industry if it faces serious injury, or threat thereof, from increased imports as a direct consequence of the FTA. This applies to all products. It is a protection that will last for a product's tariff liberalisation period plus five years, in order to allow domestic industries time for readjustment. We are committed to ensuring that any deal we sign now and in future will include protection for the agriculture industry and will not unfairly undercut UK farmers.

The noble Baroness, Lady Bakewell, asked whether we had sold farmers out. No, we strongly believe that this deal balances open and free trade with protections for the agricultural industry. The UK has secured a range of measures to safeguard our farmers, including these tariff rate quotas for a number of sensitive agricultural products, product-specific safeguards for beef and sheepmeat, and a general bilateral safeguard.

[BARONESS BLOOMFIELD OF HINTON WALDRIST]

I must end. I thank noble Lords for taking part in this debate and for raising some extremely important points. Our food system is complex and we recognise the challenges that farmers face, but the UK has a highly resilient food and farming system, as demonstrated throughout the Covid-19 response. I hope I have reassured your Lordships that we will always champion our farmers and producers, supporting them to grow more of our great British food and to provide a reliable and sustainable food supply to the British public and beyond.

Health and Care Bill

Committee (Day 1) (Continued)

8.45 pm

Amendment 6

Moved by **Baroness Wheeler**

6: Clause 3, page 2, line 8, at end insert—

“(ba) after subsection (2) insert—

“(2A) The Secretary of State must specify in the mandate maximum waiting times for access to NHS services, including—

- (a) a maximum waiting time standard of 18 weeks from GP referral to first treatment;
- (b) a waiting time standard for the time it takes to diagnose rare and less common conditions following a GP referral.”

Member’s explanatory statement

This amendment would require the Secretary of State to deliver the existing 18 week waiting time target and ensure a maximum waiting time standard for the diagnosis of rare and less common conditions is introduced.

Baroness Wheeler (Lab): My Lords, with 6 million people in England waiting for operations and routine procedures, many of whom are in pain, I make no apology for moving my amendment at the start of this grouping, which seeks to ensure that the 18-week waiting time target is maintained as a key part of the NHS mandate. This group also covers key amendments on the commissioning role of integrated care boards in relation to specialised healthcare services, and on the duty of ICBs to share best practice on innovation and the quality of services.

On waiting lists, the pandemic has resulted in a huge backlog of care and treatment, compounding pre-existing challenges. The 18-week waiting time standard has not been met by the NHS since 2016. Instead, we have a situation where the NHS’s latest planning guidance sets out plans to eliminate only waits of 104 weeks, to reduce waits of 78 weeks and to support an overall reduction in 52-week waits. Even as a temporary measure this should be unacceptable, and at best we should have a commitment and a plan to restore performance.

Last week’s report from the Health and Social Care Select Committee described the unquantifiable challenge faced by the NHS in addressing the backlog, with 300,000 people now waiting for more than a year for treatment for surgery, such as hip or knee replacements. We know the devastating suffering that the long delays in diagnosing cancer and other diseases such as heart

conditions or stroke are causing. The Secretary of State himself said that the waiting list might grow to 13 million, and that was before the current omicron wave, which has only exacerbated this challenge. His promise in November to publish the Government’s plans to meet the workforce requirements needed to address staff shortages and the record waiting lists has yet to materialise.

Of course, this is not just about elective care. In emergency departments, waiting lines in October 2021 were the worst since records began, with one in four patients waiting longer than four hours to be admitted, transferred or discharged, and with trolley waits at a record high. October last year saw the highest number of 999 calls on record. There is a serious risk that the ongoing crisis in emergency care could derail the elective recovery programme.

Although the problems are manifold, prioritisation of the elective backlog is understandable. However, a focus on those areas most amenable to numerical task risk effectively deprioritises other equally important areas such as primary care, community services and mental health services, which all play a crucial role in keeping people healthy and out of hospital. It would be helpful if the plans around recovery in other aspects of care, with some sort of target or at least objective spelled out, were also made known—access to GPs being a primary example.

We know that workforce shortages are the key limiting factor on success in tackling the backlog. Without better short and long-term workforce planning, the 9 million additional checks, tests and treatments will not be deliverable. NHS England’s chief executive, Amanda Pritchard, told the Select Committee that the NHS currently has 93,000 vacancies for NHS positions and shortages in nearly every speciality. The social care workforce has, at present, 105,000 vacancies and a turnover rate of 28.5%, rising to 38.2% for nurses working in social care. Changing the way the cap is calculated will not help this, and of course discussions on both the cap and the need for a credible and systematic workforce plan in the light of the current chronic staff shortages will follow later in the Bill.

The waiting times focus of my amendment, which seeks to insert a new paragraph into Clause 3(2), is tangible and measurable, as are the constitutional targets. In the context of the huge challenges the NHS faces, the 18-week waiting time target remains vital. The discipline it imposes helps focus the entire system on the needs of patients. It drives behaviour and focuses funding, and it facilitates the organisation of seamless care for the patient, from the GP practice through diagnostic tests, out-patient care and, ultimately, if needed, to in-patient treatment. It gives leaders at local level in particular the leverage they need to unblock barriers to speedy care, such as delayed discharges from the hospital—another key issue on which we will focus later in the Bill.

The second part of my amendment reinforces the importance of the target for care for people with rare conditions and mental health conditions, which can all too often be Cinderella areas—overlooked in favour of more common conditions. I have a personal interest, which I declare, as vice-chair of the Specialised Healthcare Alliance, a coalition of more than 100 patient-related

charities, groups and corporate supporters campaigning for improvements to care for patients with rare and specialised conditions, and for greater awareness of their needs, treatment and support.

The amendment also underlines the need for speedy diagnosis for this key group of patients. The SHCA chair, the noble Lord, Lord Sharkey, has added his name to my amendment and will speak on the importance of this in his contribution. He will also speak to Amendment 19 in this group, to which I have also added my name, which would ensure that ICBs

“commission specialised services in line with national standards”, that their performance in this regard is published and monitored, and that there are safeguards that will operate if this commissioning role is removed from an ICB.

On treatment standards, can the Minister reaffirm that despite the current situation, every patient legally retains the right to treatment within 18 weeks? If so, what steps can patients take if the NHS does not deliver in line with this requirement? Can he assure the House that the Government have no plans to weaken this legal right and are fully committed to returning the NHS to an 18-week standard?

I am also speaking to Amendment 60 from my noble friend Lady Thornton, which would insert a new subsection, within the proposed new sections in Clause 20 on ICBs, to ensure that innovation and best practice on the quality of services

“is shared ... openly and prevents individual trusts and foundation trusts from refusing to share beneficial developments or improvements through any issues around competition between organisations.”

This is crucial in helping to overcome any obstacles linked to the autonomy or independence of the organisations evolved.

We also support Amendment 215 from my noble friend Lady Merron, which would insert an important new clause after Clause 80, requiring the Secretary of State to publish an annual report to Parliament

“on waiting times for treatment in England, including disparities” across the country. It is vital that this report also details the steps taken to ensure that patients, in line with their rights under the NHS constitution, are able to access services within minimum waiting times.

We also note Amendment 21 from my noble friend Lord Davies. He will be fully aware of Labour’s support in commissioning from the NHS as the preferred provider. His amendment is borne out of the right motivations but, I am afraid, misses the point that there are many social enterprises, charities and community organisations whose delivery of healthcare is vital to the functioning of the NHS and social care—for example, in end-of-life care—and we fully support the key role that they play.

The situation facing the NHS as it struggles to address waiting times and lists is dire, yet the recent NAO report on waiting times recovery pointed to some reasonable projections indicating that, far from improving on the current trajectory, the position will be even worse in March 2025 and beyond. That takes into account all the Government’s promised funding. The situation has echoes of the 1990s; Labour was able to address the challenges then, under different circumstances, but the current challenges are even harder. By 2010, the situation had improved to such

an extent that demand for private healthcare had dropped. Now we see the opposite, with people having to pay to jump the queues.

Targets were an important part of how improvement was achieved through Labour’s three terms, backed by greater investment and a genuine commitment to public service solutions. The NHS responded to the confidence placed in it but today, there is no plan and no commitment, and totally inadequate funding to address the waiting times issue—the issue that patients are usually most concerned about. The NHS Mandate and the NHS constitution contain crucial rights and standards of care for patients and stakeholders, ensuring that the NHS has basic stability, knows what is expected of it and can be judged on its performance. We must keep the 18-week target and make sure that it is not fudged away. I beg to move.

Lord Sharkey (LD): My Lords, I declare an interest as chair of the Specialised Healthcare Alliance. I will speak to Amendment 6 and 19. I added my name to Amendment 6 and I wholeheartedly support the points made by the noble Baroness, Lady Wheeler, in her eloquent opening remarks. I will make a few brief supplementary points on rare and less common diseases.

Proposed new subsection (2A)(b) in Amendment 6 refers to waiting times for a rare disease diagnosis and is intended to probe the Government’s ambitions in this area. The Government’s rare disease framework noted that it can take years to receive a final and definitive diagnosis of a rare disease and that some people living with a rare condition may never receive one at all.

In 2019, the Government’s national conversation on rare diseases found, perhaps not entirely surprisingly, that getting the diagnosis right was the number one challenge in rare disease care. But the process of getting this diagnosis has been called, entirely understandably, an odyssey—many journeys, many ports of call, and many difficulties. This odyssey frequently involves multiple referrals, inconclusive tests and even incorrect diagnoses before a final definitive diagnosis is arrived at.

The rare disease framework makes a very welcome commitment to making improvements in this journey. I would be grateful if the Minister could say what concrete steps are being taken to bring about the desired improvements to arrive at Ithaca much earlier and in better shape. For example, the rare disease framework talks of a need to improve diagnosis rates. How is this to be measured and what is the baseline to be? Is there a target that the Government are working towards? If there is, when is it expected to be reached? The framework also commits to making use of advanced diagnostics to improve the speed of diagnosis. Can the Minister say what new technologies are being deployed and which are under active consideration? Finally, the spending review announced funds for a new newborn genetic screening programme. What might we expect in terms of a timeline for the piloting of this programme and its wider implementation if the benefits are proven?

I turn to Amendment 19, in my name and that of the noble Baroness, Lady Wheeler, for whose support I am grateful. We have around 3.5 million people with rare or less common diseases or complex conditions.

[LORD SHARKEY]

This number grows as our population ages. Many of these people require specialised treatment of one kind or another. Currently, these treatments are provided by the specialised commissioning team of NHS England. In total, there are 149 specialised services directly commissioned by NHS England, and in 2018-19 £18 billion or so was spent on these services.

There are some problematical aspects to the large-scale direct national commissioning of this very large range of specialised services. The NHS points to these in its paper of last January, *Integrating Care: Next Steps to Building Strong and Effective Integrated Care Systems across England*. It said that

“these national commissioning arrangements can sometimes mean fragmented care pathways, misaligned incentives and missed opportunities for upstream investment and preventative intervention.”

The paper goes on to propose a new model whereby the provision of some specialised services can be delegated to be more responsive to place-based needs and local collaborations.

The NHS proposes that there will be four principles underlying this new approach to the delivery of specialised services. The first is that all specialised services will continue to be subject to consistent national service specifications and evidence-based policies determining treatment eligibility. The second is that strategic commissioning, decision-making and accountability for specialised services will be led and integrated at the appropriate population level. The third is that clinical networks and provider collaborations will drive improvement, service change and transformation across specialised and non-specialised services. The fourth is that funding of specialised services will shift from provider-based allocations to population-based budgets, supporting the connection of services back to base.

Amendment 19 is a probing amendment to allow us to ask a few detailed questions about how these principles will operate in practice. The first is to do with the ability of ICBs to commission specialised services in line with ongoing national standards. How will this ability be assessed, and by whom? Can the Minister confirm that being judged to have the appropriate ability will be a transparent decision and an absolute condition of delegation? Following this, can the Minister also confirm that there will be at least an annual published review of ICBs’ performance in the commissioning of these specialised services? Can the Minister tell us what the circumstances are in which such a delegation of specialised commissioning may be withdrawn? What is the legal mechanism for doing that? Finally, there is the question of money. How can we be sure that the appropriate funds are spent by ICBs on specialised commissioning? Is a ring-fencing of funds being considered, for example?

I close by noting the many successes of the NHS specialised commissioning group and its frequent and very welcome engagement with patient groups and the Specialised Healthcare Alliance.

9 pm

Lord Davies of Brixton (Lab): My Lords, I shall speak to my Amendment 21, and I support the other amendments in this group. Before I reach the meat of my remarks, it seems a long time ago, but two hours

ago we were discussing mental health. I did not intervene in that debate, although the issue is very close to my heart. I totally support everything that was said in that debate, but I was gearing myself up for this contribution, not knowing that I would have a two-hour interlude.

This Bill in general is not the answer to the immediate and long-term crisis in the NHS and social care sector, but the particular concern I raise through my amendment is the widespread fear that the new arrangements being proposed will lead to the growth of the private provision of healthcare, with multi-million-pound private sector service contracts leading to the loss of the public service ethos of the NHS. I have no doubt that the Minister is well aware of these concerns. It is no secret; they have been widely discussed in the columns of the national press and professional journals. For example, Jan Shortt, the general secretary of the National Pensioners Convention, has said:

“This Bill truly represents a creeping backdoor privatisation of health care services, which despite government claims, will badly impact on the patient care across the UK.”

So I do not think that there is any question that these concerns exist.

The Government have promised that there are no plans to privatise the National Health Service, but that is quite different and distinct from the privatisation of healthcare services, shown specifically, or most starkly, by the increasing number of US-owned private companies which already provide them for the NHS and obviously seek an expanded share of the market. It is worth noting the not sufficiently reported or commented on fact that the Chancellor of the Exchequer, Rishi Sunak, was unable to attend a meeting with our hard-pressed services sector because he was busy in discussion—according to a report in the *Financial Times*—with US healthcare providers when he was in California recently. The Government should not insult us by suggesting that there is not an issue here of the growth in the provision of healthcare by commercial interests.

Even with the amendments to limit private companies being represented on integrated care boards, there is absolutely nothing here to stop private companies playing a part in other ways—for instance, clearly at the sub-system level via place-based partnerships and provider collaboratives. There is this whole word salad of different ways of describing these organisations operating at that level below, for or with the integrated care boards in providing services. This is the Trojan horse that will bring private provision within the walls of our publicly provided NHS.

NHS England states clearly in guidance:

“Independent sector providers can be members of a provider collaborative, but the extent of their participation may depend on the specific form and governance arrangements and the nature of a particular decision being taken by the collaborative.”

Dig through these words and they mean that we just do not know what arrangements will actually be established in this new world of provision. Guidance from NHS England also states:

“The Health and Care Bill, if enacted, will enable ICBs to delegate functions to providers including, for example, devolving budgets to provider collaboratives.”

It is this uncertain nature of the exact administrative arrangements that will apply under the new scheme that leads to the level of concern. As place-based

partnerships and provider collaboratives are allowed to include private companies, the Government's rhetoric about protecting the independence of ICBs is hollow. For all the talk from the Minister in the House of Commons of recognising that

"the involvement of the private sector, in all its forms, in ICBs is a matter of significant concern to Members in the House"—[*Official Report*, Commons, Health and Care Bill Committee, 14/9/21; col. 258.]

the Government have not taken the action needed to stop private companies exerting excessive influence in decision-making in the health service.

The defence against such developments will be in the hands of the ICBs, hence the concerns expressed today about their membership. This is the Minister's opportunity to assure me, your Lordships and the many bodies outside this House which have expressed concerns that our concerns are misplaced. Simply dismissing them will not work. I note the remarks of my noble friend and maybe my amendment is not the best way of achieving my objective of getting the Government to put boundaries on commercial development within the health service, but I hope that the point of principle will be addressed and will not hide behind the limitations of my amendment.

Lord Lansley (Con): My Lords, I would like to intervene on this group, in particular to support Amendment 19. I am grateful to the noble Lord, Lord Sharkey, and the noble Baroness, Lady Wheeler, for tabling it. As the noble Lord said, it gives us an opportunity to probe the arrangements for the commissioning of specialised services in the future. I hope my noble friend will be able to clarify that tonight and perhaps add further clarity as we go on.

I want to talk about this because I remember that a decade or more ago, even though the NHS was a single organisation with a single responsibility for specialised commissioning, most of this was in fact delegated to strategic health authorities. My experience was that, with the separate budgetary responsibilities of strategic health authorities and their ability to commission those services themselves, we ended up with considerable disparities and inconsistencies in the commissioning of specialised services. We know this must be the case because, after NHS England took over the responsibility in 2013, one of its most challenging tasks, not least in financial terms, was to secure a common specification and common service standards. The objective was of course not to level down, but level up, in the finest traditions of the present Government, and that levelling up was expensive. As we will all discover as time goes on, levelling up is expensive by nature. It was challenging to NHS England at a point when resources were highly constrained.

That having been achieved, we are all very clear that we do not want to go back to the bad old days but—I thought the noble Lord, Lord Sharkey, was very fair about this—there is a counterargument. Many patients, even if they have a less common condition, actually receive much of their healthcare locally, from local providers through local commissioning arrangements. They need to be integrated, and things such as access to chemotherapy for common cancers or diagnostics through the community diagnostic centres, as they are

created, may be more appropriately commissioned for those patients by a local integrated care board rather than NHS England directly.

However, as the noble Lord, Lord Sharkey, referred to, there is the principle of setting commissioning at appropriate population levels. As I know from experience, the NHS can consume endless time and energy trying to work out the geography of these things and what population is right for what purpose. If nothing else, even if they multiply the tiers from place-based to ICSs to regional teams to NHS England, the present arrangements at least give specialised services a chance to be commissioned and led at an appropriate population level. For many specialised services, that is not at the level of an integrated care board, as the population may be too small for them.

We know that highly specialised services will be retained by NHS England. If some services that need to be integrated locally, for the benefit of patients, are with the ICSs, there is none the less a question, about which we need to hear more, on the extent to which NHS England will manage the commissioning by using regional teams to try to maintain national specifications and service standards through their own responsibilities.

An opportunity that has not been referred to and is not in the Bill, but may be useful in practice, is to learn from the experience and, I hope, capability of the specialised commissioning team at NHS England and have a specialised commissioning support unit. It could stand behind the regional teams or even the ICSs, if appropriate, to help them have the capability to commission effectively. Amendment 19 asks the right question: this responsibility should not be delegated to individual integrated care boards unless NHS England is clear that the capability subsists at that level. We have to accept at the start that it probably does not.

I referred earlier to outcomes which, for providers in the NHS, are often at their highest in specialist hospitals. We have a dozen or more specialist hospitals, of which the majority of services—up to 80% in one or more cases—are commissioned as specialised services. We want them to have a more coherent structure of commission; we do not want them to have dozens of contracts with integrated care boards, all over the country. I hope that NHS England, in the regime that puts commissioners and providers close to one another, at least looks out for specialist hospitals and says, "We should have a lead commissioner of these services". It may well be that the lead commissioner is in NHS England and sets up the contract there.

My final point is on the very reasonable question asked by the noble Lord, Lord Sharkey, about budgets. Why were strategic health authorities differentiating in the way they did? Their budgets forced them into different decisions in different places and, over time, that increased the degree of divergence and inconsistency. The same will happen with ICSs, unless some very clear countermeasures are taken. They could be ring-fenced budgets or some other such mechanism, but the budgets might have to be held not locally but centrally, even if some of the functions are delegated more locally. We have to be aware that, when you start to shift and delegate budgets, it is very hard then to maintain national service standards. That should be done only when it is very clear that the safeguards are

[LORD LANSLEY]
in place. I hope we can use the debates on the Bill as a mechanism to give those who rely on specialist services and the providers of them greater clarity and assurance about how they will go about that in the future.

9.15 pm

Baroness Young of Old Scone (Lab): My Lords, I support Amendment 60 in the name of my noble friend Lady Thornton on the need for ICBs to share innovations and good practice widely, in the spirit of collaboration. The NHS has for many years been rather poor at sharing and adopting innovations compared with, for example, local government, where several effective networks exist for the sharing of good practice and there is a real culture of such sharing.

The Science and Technology Committee, under the chairmanship of the noble Lord, Lord Patel, reporting on its inquiry into the life sciences, found that the NHS ought to be a unique opportunity for the spread of innovation across the system—that is what the “N” in NHS is all about—but that it was a long way from realising that aspiration. The evidence from NHS England’s director of innovation was lacklustre in the extreme, and progress from NHS Improvement was slow. The Select Committee report said that the current structure of the NHS “stifles innovation”.

When I was chief executive of Diabetes UK, I discovered how even getting innovations and improvements that would save the NHS substantial money was like pulling teeth. In frustration, I wrote to the then Chancellor—slightly tongue in cheek—to tell him how to save a billion quid by implementing the best practice patient pathways for diabetes patients. I am still waiting for a response.

In an effort to see how other countries’ health systems handled improvement and innovation in diabetes care, I went to Canada and the USA, and came to the conclusion that collaborative health systems such as Canada’s were better at sharing and then adopting improvement and innovation than competitive ones like the United States. My noble friend Lady Thornton’s amendment is highly necessary and sets the tone for a collaborative rather than a competitive approach, which should be at the heart of the NHS for the future.

Lord Warner (CB): My Lords, I will say a few words about specialised services on the basis of a committee that I chaired about five or six years ago at those services’ request. It followed the demise of strategic health authorities under the 2012 Act. The one thing that this committee demonstrated very clearly was that population was significant and that, if you ignored population, you were not likely to get good outcomes. There was no magic figure on population but it was of a size common in the territories of most of the SHAs. That is not to say that the SHAs did a crackingly good job, but they were the organisations with the size of population necessary for good commissioning of many of these specialised services.

The trouble was—and it is the same trouble mentioned by the noble Lords, Lord Lansley and Lord Sharkey—that if you have a regional system, by definition you give it some degree of control over its priorities. It follows almost as night follows day that different regions will

take different views about the significance of specialised services in their particular region. We have struggled with this issue for many decades and not found it easy to come up with a solution.

You can go the whole hog and put it on NHS England, but that poses the problems that the noble Lord, Lord Sharkey, honestly owned up to: many of the people with these conditions are getting a range of services outside that specialised commissioning service. I came to the conclusion that you have to have something that is of the size of, or of a similar size to, the former SHAs, but you do need a role at the centre trying to ensure a level of consistency of approach in those larger areas. I think we are still fumbling our way towards the right mix of that and I cannot see that we will be able to put in this legislation a definitive answer to that particular set of conundrums.

While I am on my feet, I shall speak to Amendment 215, to which I have added my name. To some extent, I reinforce the seriousness of the situation that Ministers and the public face with the enormous backlog of patients awaiting treatment that the noble Baroness, Lady Wheeler, drew attention to. I refer the Committee’s attention to the excellent report by the National Audit Office published about six weeks ago. This report made it absolutely clear that in September 2021 there were nearly 6 million people on the waiting list for elective care and that one-third of these people had been waiting longer than the waiting standard of 18 weeks. Some 300,000 rather unlucky people had been waiting in pain and discomfort for more than a year. The NAO made it clear that even before Covid-19, many parts of the NHS were not meeting the waiting time standard and that about one in five cancer patients was not meeting the waiting standard for urgent referrals by GPs—that is a pre-Covid situation that has simply got worse as time has progressed.

I recognise that the Government have promised to provide an additional £8 billion between 2022-23 and 2024-25, some of which they expect the NHS to use to increase elective capacity by 2024-25 by 10% more than its pre-pandemic plans. I have to say, as a former Minister responsible for reducing waiting times and implementing the original 18-week maximum wait, that Ministers need to realise that announcing the extra money is the easy bit; putting in place a system for ensuring that the NHS leviathan actually uses the money for its intended purpose and can demonstrate delivery of the promised outcome is an entirely different matter. It took the Blair-Brown Governments from late 2004 to early 2008 to deliver the 18-week maximum wait and the cancer targets, using a lot of different tools in the ministerial toolbox.

There is not one simple solution to delivering these changes. The regimes that were implemented by those two Governments used a lot of extra money; a relentless, transparent measurement; and a great deal of clinical and political management pressure. They used expanded patient choice, so that patients could drive change, and I have to say to the noble Lord, Lord Davies of Brixton, that they also used the private healthcare system to increase diagnostic and surgical capacity by about 10% to 12%, but they did so at NHS prices. So, there is not a single solution; there are a lot of solutions that have to be applied and measured.

A critical factor in this is keeping everybody honest through transparent information about how progress is being made. If that is lacking, you are probably doomed to fail. The strength of Amendment 215 is that it puts in place a system for regular reporting of progress being made—or not being made, in some cases. It is important, as my own experience has shown, to know which parts of the country are doing well and which are not doing so well, so you can actually ensure that some action is taken on the slowest ships, as they say, in the convoy.

It should come as no surprise from what I have said that I strongly support Amendments 6 and 19 and do not support Amendment 21. I recognise, as we were discussing earlier this afternoon—time flies; I mean this evening—the whole issue of health outcomes and outcomes frameworks. Those are very important. However, at the end of the day, you cannot secure good outcomes without speedy access to clinical services. You do not get them. Waiting times of the length we currently have can lead only to poor outcomes. We must put in place systems that measure the progress being made in driving these waiting lists down. Given the seriousness of the situation, we need something about this in primary legislation to ensure that people across the country and the NHS are moving in the same direction in driving waiting times down.

Lord Bethell (Con): My Lords, I want to say a brief word in support of the amendment on innovation in the name of the noble Baroness, Lady Thornton.

Having just been the Minister for Innovation, I can tell noble Lords that they could fill their entire diary travelling the country and seeing fantastic innovation in the NHS up and down the country. Noble Lords could fill their Zoom calls speaking to countries around the world that look to the NHS for some of the best innovation and partner with it on innovative programmes. However, that innovation is often extremely isolated and rarely spread evenly across the whole country. In fact, I often thought that my job title should have been not Minister for Innovation but Minister for Adoption because my role should have been to take the best that the NHS does and spread it across the country more evenly. That is the objective of the Government's health policy at the moment: to see a much more even spread of best practice right across the country.

Although we cannot legislate for culture, we can give signals to the system about what we think is important. I therefore think that the noble Baroness, Lady Thornton, is on to something in suggesting this amendment. It should be given careful thought by the Minister.

Baroness Bennett of Manor Castle (GP): My Lords, I rise to offer Green support for all the amendments in this group. I will split them into two groups internally. First, I will speak to Amendments 6, 19, 60 and 215; I will then deal with Amendment 21 in the name of the noble Lord, Lord Davies, separately.

All these amendments are about transparency and targets. When we look back to when targets were a particular focus—when the NHS was under the control of the party on these Benches—there were concerns that targets could sway provision and medical judgments.

There was a concern that this was about the management of targets rather than the outcome for the patient. However, if we think of targets as foundations and basic standards that need to be met, it is really important that we ensure that there is enough funding for local priorities and concerns to be addressed to reach a higher level.

Amendment 215, which refers to an annual report, is particularly interesting; I know that it has full cross-party support. This is about people knowing what the NHS is achieving and, importantly, whether there is enough provision in it. Of course, your Lordships' House is not in a position to demand that more money goes into the NHS; by constitutional norms, we cannot deal with spending. However, I think that we should frame this debate—this is my first contribution in Committee—by looking at the pre-Covid figures. The UK was spending £2,989 per person on healthcare; this was the second-lowest in the G7. France was spending £3,737; Germany, £4,432.

Of course, the great outlier in this is the US, spending £7,736 a year. It is worth noting that we seem to be chasing so much after the US healthcare model, which is so absolutely disastrous. Most of the amendments in this group are a way for your Lordships' House to give the public the tools to say that we need to improve the resources of our NHS.

9.30 pm

The noble Lord, Lord Warner, really got to the point of just how much under pressure the system was, even before we hit Covid-19. I briefly draw your Lordships' attention to the Central Bylines website, and the tragic report of the death of Jacob Roche, written by his wife, June Roche. I was going to talk about this in detail, but I am aware of the time and will not. However, I urge noble Lords to look at the incredibly stretched nature of our NHS—the report is about December, so before omicron—which cannot be solely attributed to Covid, as the noble Lord said.

Amendment 21 sits rather oddly in this group, and I think many issues I raised at Second Reading will come up in later groups. I associate myself with all the comments of the noble Lord, Lord Davies of Brixton, about the concern around private sector involvement. My reading of his amendment is that it does not address a community-run hospice or a local consortium of physiotherapists. It is particularly looking at integrated care boards and the involvement of the private sector in management systems. If we analyse why the US system is so expensive for such disastrous results, we see that administrative costs are a really important part of that.

I would say that the profit motive should have no place in healthcare. Think about the cost of the profit motive. It has an influence on decisions because, after all, the private companies' job is to make profits; there is also the fact that money going into profits is not going to healthcare.

Earl Howe (Con): My Lords, these are important amendments and I am grateful to all the noble Lords who tabled them. Perhaps I could start with the amendments relating to waiting times, before going on to those about ICB functions.

[EARL HOWE]

Beginning at the end, as it were, Amendment 215 would legislate for an additional duty for the Secretary of State to publish a report annually on waiting times for treatment in England, disparities in waiting times for treatment and the steps being taken to ensure that patients can access services within maximum waiting times, in accordance with their rights in the NHS constitution.

I entirely understand the intention behind the proposed new clause. It is important that patients can access healthcare within reasonable waiting times and it is important for all of us to have visibility of the waiting list size, as well as waiting times, in England. Your Lordships will understand that the Covid-19 pandemic has caused an unprecedented strain on the NHS, bring about significant disruption. It has shone a light on disparities and led to the largest NHS waiting list on record. It is a priority of this Government to reduce waiting times, tackle disparities and provide access to healthcare as quickly as possible to patients.

Although the situation is difficult, I think I can give reassurance on three grounds. First, the NHS already has waiting time standards. Some are enshrined in legislation and some are operational standards, but all are described in the NHS constitution and the accompanying handbook. Since March 2007 the NHS has published monthly official statistics on waiting times. This includes consultant-led referral-to-treatment waiting times, which monitor the length of time from referral through to elective treatment. It also includes the number of patients who began cancer treatment and waited longer than 62 days for cancer treatment. NHS England also publishes monthly management data on the number of people currently waiting longer than 62 days for diagnosis or treatment.

Secondly, the department already submits information on waiting times to Parliament as part of its annual report. Much of this data is very similar to that asked for in this amendment.

Thirdly, as I speak, extensive work is already being undertaken by the NHS so that patients can access services within maximum waiting times. The funding we have announced for elective recovery, including cancer services—with £2 billion this year through the elective recovery fund and £8 billion over the next three years through the health and social care levy—will increase activity, reduce waiting times and deliver millions more checks, scans, procedures and treatments. We also announced £5.9 billion of capital funding at the October 2021 spending review to support elective recovery, diagnostics and technology over the next three years, which will further reduce patient waiting times.

Fourthly and finally, we will set out in the elective recovery delivery plan how the NHS will deliver increased elective capacity and reduced patient waiting times for elective services, including for cancer patients. I hope that provides a degree of reassurance that we approach reducing waiting times seriously and that the data is available to hold us and the NHS to account for progress.

I now turn to Amendment 6 tabled by the noble Baroness, Lady Wheeler, and the noble Lord, Lord Sharkey, which would require the mandate to specify

maximum waiting times that NHS England should ensure the NHS meets. This would include the current 18-week referral-to-treatment waiting time standard as well as waiting times for diagnosis of rare and less common diseases.

The Government should always consider whether the mandate to NHS England should set expectations on waiting times. I do not think the mandate has ever been silent on waiting time standards, and nor would I expect it to be. I firmly believe, though, in the principle that the Government of the day should be free to set a mandate based on the priorities that they have been democratically elected to deliver. These will inevitably change over time in light of improvements in services and technology, as well as evolving patient need.

However, requiring the mandate to continuously include waiting time standards is unnecessary because important waiting times set out in legislation or NHS operating standards are reflected in the NHS constitution, as I mentioned. NHS England and other organisations that commission or provide NHS services have a long-standing duty to have regard to the constitution, in addition to NHS England's duties in respect of the mandate.

I now turn to the amendments relating to ICB functions. I again thank noble Lords for bringing these matters to the Committee today. Amendment 19, tabled by the noble Baroness, Lady Wheeler, and the noble Lord, Lord Sharkey, seeks to amend Clause 8, which ensures that NHS England is able to direct integrated care boards to take on responsibility for the commissioning of specialised services on its behalf. The noble Lord, Lord Sharkey, asked me a series of detailed questions on that theme. If he will allow, I will write to him on those that I am unable to deal with in the remarks that follow.

The first thing to say here is that NHS England does not propose to use Clause 8 initially. The intention is that any delegation is agreed with ICBs. Delegating some direct and specialised commissioning to ICBs makes sense, because it is likely to be an enabler for integrating care and improving population health. It gives the flexibility to join up key pathways of care, leading to better outcomes and experiences for patients and less bureaucracy and duplication for clinicians and other staff.

My concern about the amendment is that it would add to the bureaucratic burden rather than reduce it. It would create an unnecessary set of regulations as well as duplicative reporting mechanisms, as regulations made under Section 13YB(3) can already be used to impose conditions, which could include creating national standards. Furthermore, Section 14Z50(7) already puts a duty on NHS England to undertake yearly performance assessments of each ICB. These are focused on how each ICB has performed its function through the year, including the commissioning of specialised services that may have been delegated.

I say to the noble Lord, Lord Sharkey, that we fully recognise that Covid has significantly impacted on waiting lists, including for specialised services. The investment that we have announced to reduce waiting times should also impact on waiting times for specialised

services. NHS England is keen to see progress in that area as much as in any other. We will hold it to account for that progress.

My noble friend Lord Lansley and the noble Lord, Lord Warner, expressed concerns about the risk of growing disparities and inconsistency in the quality of specialised healthcare around the country. The key point that I would emphasise is that NHS England will retain responsibility for setting national standards as well as service specifications and access policies. These will apply to all prescribed specialised services, whether they are retained for commissioning by NHS England or become the responsibility of ICBs on commission. It may be a single ICB, but it may be a group of ICBs commissioning; it will depend on the type of service and the size of the ICB.

NHS England will therefore remain the accountable commissioner for all specialised services and will ensure that the appropriate safeguards are put in place for those services that may be delegated to ICBs or groups of ICBs. Only services that are considered appropriate for more integrated commissioning would be delegated; that is, those services that are suitable and ready. There will be services that are not appropriate, and these will be retained for commissioning by NHS England. As I am sure the noble Lord, Lord Warner, well knows, we need to remember that the list of prescribed specialised services contains very highly specialised services such as hand transplants and much more routine services such as dialysis. Whereas those on the upper end of the scale will always need to be commissioned nationally—I cannot see any alternative there—it is right that those more common services can be commissioned more locally.

I turn next to Amendment 21, which I am grateful to the noble Lord, Lord Davies, for bringing forward. I do not in the least dismiss the issues that he has raised. I understand the spirit in which the amendment was brought and hope that I can give some reassurance on two counts: first, that it is not our intention for ICB functions to be delegated to private entities, and, secondly, that safeguards are already in place.

It is perhaps also worth drawing the Committee's attention to the narrowness that this amendment would impose on the delegation of functions. It would prevent delegation of functions to other statutory public bodies such as local authorities. As the noble Lord will appreciate, this would run counter to our desire to support further integration and to allow the pooling of budgets and functions between the NHS and local authorities. This has been a fairly long established practice and has worked well to support joint commissioning, service improvements and more seamless services for patients.

9.45 pm

The power to delegate functions is crucial to unlocking the innovation and integration that the Bill is aiming for. Different areas will have different circumstances, and it is important that they have the flexibility to build arrangements that work best for them, their patients and the public. However, I understand the concern that functions could be delegated to private companies; I assure the Committee that this is not the intention and we do not expect it to happen.

Private providers are not included in the specific list of bodies which an ICB can arrange for functions to be exercised by or jointly with in the Bill. Furthermore, NHS England may issue statutory guidance on delegation and joint committees, which we expect it to do. This is likely to include scenarios, case studies and model delegation agreements. ICBs will have to have regard to this guidance.

Crucially, regardless of whether or not a function is delegated, the ICB will always remain ultimately responsible for it and will continue to be assessed and overseen by NHS England on how well it is discharging its functions. The key point here is that delegation is not a means to avoid accountability. Neither we nor NHS England will allow it to become so.

On the integrated care provider contract, I assure the Committee that it continues to be our intention that it should be awarded only to statutory bodies. The published draft integrated care provider contract is suitable for entering into only with statutory bodies. This was based on the recommendation from the Health and Social Care Committee.

Finally, Amendment 60, in the name of the noble Baroness, Lady Thornton, would place a duty on ICBs to promote and share best practice and work to remove barriers to achieving this. I am very sympathetic to her concerns to ensure that our health service is effectively integrated and that innovations are shared throughout the system. I am glad to reassure her that this sort of integration is a core part of the Bill and will already be delivered by existing proposals in Clause 20.

I remind the Committee of the proposed duty for ICBs to promote innovation. This would include ensuring that new innovations and best practices are spread freely to ensure that the whole system works efficiently. Secondly, I remind the Committee of ICBs' duty to promote integration. This requires ICBs to ensure that health services are delivered in an integrated way where they consider that this would improve the quality of services and reduce inequalities of access or outcome. In combination, these duties require ICBs to work to ensure that different elements of the health service effectively communicate with one another to implement innovations and share best practices.

The work to share best practice is already well established. NHS England currently collates and shares best practice case studies of how non-statutory ICSs are supporting innovation and research through its funding of the academic health science networks—15 regional bodies set up to support the identification, adoption and spread of innovation. The work of AHSNs, which are commissioned by the Accelerated Access Collaborative to spread proven innovation at pace and scale, is a key lever in all this. The national network of AHSNs provides a critical interface between national and local systems in the identification, adoption, spread and scale of innovation. AHSNs drive both the generation of demonstrably useful, evidence-based innovations and their adoption and spread. This includes thousands of innovations supported in the last year, covering millions of patients.

I hope that I have given a measure of reassurance on these matters and that, in consequence, the noble Baroness, Lady Wheeler, will feel able to withdraw her Amendment 6.

Baroness Wheeler (Lab): I thank the Minister for his detailed and considered response; I very much appreciated it. I listened carefully to what he said about waiting lists; I did not exactly hear his commitment to the 18 weeks, but I understand the reasons that he set out for the Government's current position on that. I just stress the importance of retaining the 18-week waiting time standard: it must remain a key part of the NHS mandate. Without this target, this discipline—particularly the importance of organising around patients' needs—will be lost.

I am particularly grateful for the Minister's detailed explanation on specialised services. I know he has a background in this, as do I and the noble Lord, Lord Sharkey. Commissioning specialised services is very complex and detailed. I was pleased with the way that the Minister described the different roles there would be at national and ICB level. We need to look carefully at what he said to see whether we need to come back to anything, but I hope the Minister will commit to having a full discussion and consultation with charities, patient groups and noble Lords on these complex issues. A number of noble Lords spoke very deeply

and movingly about specialised services and their importance, and that is important to the House. Continued discussions, particularly on how the relationship between national standards and ICBs will work, are also important.

I thank my noble friend Lady Young for her support for Amendment 60 and her salutary comments on how difficult it can be to make sure best practice is achieved and followed. That was very helpful. On the Minister's comments about the reporting to Parliament role, I need to look carefully at what he said about what exists and takes place. I take the point made by the noble Lord, Lord Warner, that it needs to be much more coherent, and we will look carefully at that to see if there is anything we need to come back to. Meanwhile, I am happy to withdraw my amendment.

Amendment 6 withdrawn.

Amendments 7 to 10 not moved.

House resumed.

House adjourned at 9.53 pm.