Vol. 825
No. 82

Friday
2 December 2022

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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

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

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2022-12-02

The abbreviation [V] after a Member's name indicates that they contributed by video call.

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

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind 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
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

House of Lords

Friday 2 December 2022

10 am

Prayers—read by the Lord Bishop of Gloucester.

Clean Air (Human Rights) Bill [HL]

Third Reading

10.05 am

Motion

Moved by ***Baroness Jones of Moulsecoomb***

That the Bill do now pass.

Baroness Jones of Moulsecoomb (GP): My Lords, I shall test the patience of the House by saying a few things. This is quite a momentous day, for me and for many other people. I record my thanks to the whole House for letting this Bill progress so quickly after topping the ballot. As it heads to the other place, I should like very quickly to highlight a few points.

First, on the eve of the 70th anniversary of the great smog, we should learn its greatest lesson, which is to take action. The Clean Air Act 1956 showed how clean air legislation could drive innovation and deliver dramatic gains for a happier, healthier and fairer society. It also made us a world leader.

Secondly, Parliament has the need, the power and the opportunity to enshrine the human right to clean air precisely and explicitly in England and Wales law. Doing so would improve the quality of decision-making at all levels of government overnight.

Thirdly, my Bill is reasonable. It would establish the right to breathe clean air, confirm clean air targets for pollutants and greenhouse gases, set deadlines while allowing postponements, encourage renewable energy and energy efficiency and ensure a proportional approach to enforcement.

Fourthly, I remind the Government that the very first Clean Air Act was enacted by a Conservative Government—

Noble Lords: Hear, hear!

Baroness Jones of Moulsecoomb (GP):—after Sir Gerald Nabarro MP, a Conservative MP, also topped the Private Member's Bill ballot, with a Bill that would implement the Beaver committee's recommendations for actions after the great smog. I therefore hope that MPs will support my Bill and that the Government will allow it time to progress in the other place and reach Royal Assent. If they do not, I hope that all other political parties will adopt it in their manifestos for the next election.

Lastly, I pay tribute to Rosamund Adoo-Kissi-Debrah, who is with us again today, and whose daughter Ella is going to give her name to this law. I hope this House's action in sending my Bill to the other place will demonstrate, more clearly than I can say, that we hear Rosamund's call for action. I give your Lordships Ella's law.

Lord Blunkett (Lab): My Lords, I congratulate the noble Baroness and all those who have campaigned to achieve this. My own city of Sheffield was the first to take up the 1956 Act. I hope we can make real progress once again on this critical issue.

Baroness Hayman of Ullock (Lab): My Lords, I too congratulate the noble Baroness, Lady Jones, on bringing the Bill forward and on her tenacity in keeping going with it and tabling some helpful amendments.

I welcome Rosamund once again. It is good to see her, and this should be progress in her name as well as her daughter's.

I say to the Minister that I was pleased to hear, in our discussion of statutory instruments the other day, that the targets for air quality and air pollution will be seen at some point in the near future. I look forward to seeing them. I hope they will be ambitious because, as the noble Baroness said, the Conservative Party has brought in air-quality legislation before so it should not be coy about supporting this and doing everything it can to improve the pollution problems.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, I express my thanks to all those who have contributed to the passage of the Bill, both today and since First Reading in the House back in May. I must express my gratitude in particular to the noble Baroness, Lady Jones of Moulsecoomb, who has been so dedicated in raising awareness of this vital issue and driving her Bill forward.

I know that noble Lords across the House understand that action on air pollution is an absolute necessity to ensure the health of our people and our environment. Nothing has made that clearer than the tragic death of Ella Adoo-Kissi-Debrah, and I pay tribute again to her mother, Rosamund, and her family and friends, who have campaigned so tirelessly in support of improving the air that we all breathe.

I know that noble Lords have also been horrified by the death of Awwab Ishak, caused by prolonged exposure to mould. My deepest sympathies, and I am sure the sympathies of the whole House, go to his family and friends. This reminds us of the importance of safeguarding indoor air quality in our homes. My right honourable friend the Secretary of State for Housing, Michael Gove, has taken immediate action on the quality of social housing.

I will not repeat the detailed arguments made at Second Reading or by my noble friend Lord Harlech in Committee. The Government absolutely recognise the need for action on air quality, and we are able to take that action, supported by our robust and comprehensive existing legal framework, now improved by the Environment Act 2021. That is why we have reservations with regard to how the noble Baroness's Bill would be delivered.

In protecting people from the effects of harmful pollutants, we must take action not only to drive down emissions but to drive up public awareness. The noble Baroness's Bill and her hard work in campaigning in support of it have undoubtedly furthered that aim. I thank her again because, as we meet the challenges of improving air quality across all sectors of the economy,

[LORD BENYON]
we need to bring society with us. We must give people, particularly the most vulnerable, the information that they need to reduce the impact of air pollutants on their health.

To respond to the point rightly made by the noble Baroness, Lady Hayman, when I say to her that those targets will be published soon, I understand that it is one of the frustrations in this House when a Minister cannot be specific, but it will very soon. I hope that when they are published, the whole House will understand how serious the Government are about improving the quality of the air we all breathe, inside and outside the home. Let me close by reassuring the House that protecting people and our environment from the effects of air pollution is an absolute priority for this Government.

Baroness Jones of Moulsecoomb (GP): I would like to say thank you to everyone in your Lordships' House.

A privilege amendment was made.

10.13 am

Bill passed and sent to the Commons.

Health Promotion Bill [HL]

Second Reading

10.13 am

Moved by ***Lord Addington***

That the Bill be now read a second time.

Lord Addington (LD): My Lords, this Bill is one I have come up with with an almost total lack of original thought. This is because it is taken from a combination of a good idea that the Government came up with, but then slightly back-pedalled from, and the recommendations from a committee that I served on with many of the other people here, which was chaired by my noble friend Lord Willis. It was called—let us get this right—the National Plan for Sport and Recreation Committee and it called for that national plan. The proposal here is that two ideas are combined: to have somebody who combines active public health with a national plan for sport. Why? Quite simply, it is because exercise is the wonder drug.

It is the wonder drug that does not just affect your physical health but, done correctly, usually supports your mental health. This is something we can do and something the public have already bought into on a massive scale—so much so that the Government are often let off the hook because most of our sporting establishments were made without government help, fund themselves and allow sporting activity to go on. Indeed, the national sports—football, rugby or cricket; you name it—provide quite a lot of the funding and government is a late player to this field.

I am calling for the Government to come in and take their fair share of the weight because, so far, they have not. They have allowed the old boys' club or the old works team to provide the physical activity. Allowing them to do it means that amateur sport, which is what we are talking about solidly here, is something provided by people going into their own pockets to help others and using their own time to make sure it happens. That is one reason why I feel the Government have been let off the hook here. If you are running your local team and playing in it, giving X nights a week and your weekends to it, you are probably not interacting with a political process that keenly because there are only so many hours in the day. The same, by the way, can probably be said of the arts.

Government really should have done more; in most other places, it does. I remember the FA talking to its German counterparts and when it said, "We spend a lot of money on maintaining pitches", the German response was apparently, "That's a local government duty." In France, you play at the stade municipal. I hope the Government will say, "We've got to get more involved here." Now, I am sure the Minister has a brief in front of him that says, "There are lots of initiatives here. Departments will talk to each other because several committees will sit down to do this, so we've got lots of initiatives." That is the answer I would have got 30 years ago. It is quite clear that, while they may have talked to each other, of decisions and cohesive action there have been little.

I could run through all the provisions in the Bill. It would not take that long but would rather try the patience of everybody here. If I can read them, I am sure we can all go through them. I would have claimed to be one of the most out dyslexics in public but I believe there is currently someone in the House of Commons challenging that position. I have two favourite provisions in the Bill: the inclusion of

"measures to promote physical access to the countryside for sports and recreation"

followed by the linkage between schools and clubs. Both depend on action across the board with local government and the departments for education, agriculture and transport all talking together.

Clause 2 has seven lines, which, as they stand, are probably more important than any other individual subsection, and say that government must work together. For instance, if we want to get the best out of our recent innovation that farmers will be helped to create footpaths, are we making sure that these footpaths are linked to traditional foot-pathing walks and that there is access to somewhere you can park a car or, better still, catch a bus to them? Would there possibly be some village where you could get a meal or a drink afterwards, and make a day out of it? That requires a huge co-ordination of government and unless you have something that drives it forward, you will not get there. We would be back to hearing, "This committee wants that", and then there is the lobby. The less said about the planning or maintenance of a footpath, the better, because that has never been a happy story. How do you get that access out there?

On schools' links to other bits of amateur sport, it does not matter if a headmaster has a row of trophies for various sports outside his room, because those children will be gone if they do not play the sport later on. A school should get awards for filling second and third teams in all of the local sports around it, not for winning the odd trophy, because that is where the benefits of social interaction and mental and physical health come in. We are rather too fond of saying, "Oh, we won something". Many of us here were champions

of our schools for something or were great debaters at the age of 11, 12 or 15. That does not matter; what matters is if you do something with it later on. It is just a tick along a pathway, but the pathway itself is important.

I declare an interest: I have played rugby union for probably far too long. My physiotherapist is probably quite happy about that. I advise everyone to read the *House* magazine for a report of the Commons' and Lords' most recent rugby matches. It is true that the photographs with it are from another match, but it is there. I will give a little commercial: anyone who is a passholder and has any knowledge of the game or would like to acquire a strange knowledge of it is welcome to participate. Golden oldies' rules allow this.

Having done the commercial, I will come back to the serious matter here. Unless you co-ordinate better, you will not facilitate this. Public health starts with clean air and water, which have certainly saved more lives than penicillin, although it was pointed out to me not a few moments ago that penicillin is also a good thing. We have to have some form of co-ordination. You have something that benefits society holistically, if you allow it to happen properly. If someone is going to move a clubhouse from inside a small town to outside it because there is a wonderful development deal, make sure that there is a bus route, or at least a cycle path, to it. Why? Because you will not have an under-18s team when their parents get fed up with ferrying them around, or possibly cannot do so. If anyone wants an example of that, I can provide a list that goes on and on.

Let us get some coherent leadership from government here—not a series of diverse initiatives and schemes, but a coherent plan. You will have to upset someone and upset government a little bit, but, unless you do that, you will not get the best out of all of this. It all comes together under the heading of public health and improvement of our society. I hope that the Bill will be given a fair wind by this House.

10.22 am

Lord Lansley (Con): My Lords, I am glad to follow the noble Lord and to welcome his Bill, not only because I agree with its content but because it affords us an important opportunity to discuss how we might improve public health through not only legislation but local, voluntary and community action. I declare an interest: I have a long-standing relationship with ukactive. In that context, I mention the recently retired chair of ukactive, our own noble Baroness, Lady Grey-Thompson, who participated in the debates about a national plan for sport and recreation to which the noble Lord referred. I thoroughly endorse what that committee had to say and the purposes of his Bill.

I will go a bit wider in the public health context and talk about the structure of support for the promotion of public health in this country. Noble Lords will recall that I was responsible for health in the coalition Government for two and a half years. We published the *Healthy Lives, Healthy People* White Paper in December 2010—exactly 12 years ago—and if anyone wants to see my prescription for public health, they still only have to look at that. It followed and reflected Sir Michael Marmot's ground-breaking work on the social determinants of health and a "life course framework" for working on public health issues.

The Government have recently talked about the importance of preventive work through the NHS, which I thoroughly endorse. But, although preventive services are a key priority for the NHS, they are not a substitute for a government-wide and societal focus on improving public health. Inequality, poor housing, environmental quality—we discussed this on Third Reading of the clean air Bill—and, not least, economic disadvantage are the major social determinants of health. They require Governments to provide leadership, resources and structures to help us improve public health across society.

This was the originating purpose of Public Health England, which pursued both this agenda and the complementary tasks of combating the key risks associated with poor mental health: tobacco and smoking; obesity, both in terms of diet and activity; air quality; drug misuse; and sexual health. The then Government brought forward plans to address each of those causes of poor health. For example, my noble friend will, I hope, tell us that a tobacco control plan renewal will not be far off.

This was not done at the expense of the health security functions, in respect of which UK expertise was, and is, internationally recognised. For example, in the year following the White Paper, the pandemic flu preparedness plan was published. However, within two years of its establishment, Public Health England's capacity to meet its responsibilities was progressively limited because of budget cuts and staffing limits. From 2015 onwards, local government's public health grant was cut by £200 million, and Public Health England saw a 40% reduction in its real-terms funding, reducing its capacity by a quarter.

The classification of Public Health England as not part of the NHS was wrong at the time and a mistake in public policy terms, and in the pandemic we paid for the results of that mistake in lives and many billions of pounds. Public health policies should seek to address both communicable and non-communicable diseases. The pandemic demonstrated, not least in this country, the interaction between vulnerabilities to infection and the effects of chronic disease in the population, often as a result of smoking, poor diet or inactivity.

The resulting division of Public Health England into two organisations is therefore a mistake. The perceived reduction in the independence of the Office for Health Improvement and Disparities, compared with Public Health England—although both are in fact executive agencies directly accountable to the Secretary of State—is also a mistake and risks undermining future responses to public health challenges, not least by failing to engage and mobilise local government. During the pandemic, we saw how important this was and what might have been, had the Government engaged it more fully at an early stage.

The scapegoating of Public Health England, which in reality resulted from a lack of investment in it, should be called out in the coming public inquiry. Public health should, like tackling climate change, be a priority across government, with leadership from the

[Lord Lansley]
top and dedicated funding. I believe that Public Health England was the right structural approach, as was the transferring of public health responsibilities to local government. We lose tens of thousands of lives prematurely every year because of smoking, alcohol abuse, poor diet and inactivity. During the pandemic, deaths in all of the older age groups were much exacerbated by obesity and diabetes.

So improving our public health, including by enhancing our environments, reducing inequalities, increasing physical activity and reducing average calorie intake—with less alcohol abuse and drug misuse, and stopping smoking—would be central to our future health security every bit as much as the investment in surveillance and the response to infectious diseases. There is a case not only for the changes proposed in the Bill, but to go further and reintegrate the public health function in an agency that leads for this purpose both across government and in society.

10.30 am

Lord Crisp (CB): My Lords, I welcome this Bill and congratulate the noble Lord on promoting it. I very much support the focus on health promotion, physical activity and cross-government action. After all, the department is called the Department of Health and Social Care and not the department of health services and social care, and the noble Lord is the Minister for Health and not just health services.

Like the noble Lord, Lord Lansley, I will also be widening the debate slightly. I am particularly pleased that the Bill widens the debate on health. Too often, we talk just about health services and healthcare, and sometimes prevention, but we almost never talk about the third important area of creating health, of which health promotion is a part. All three are important and essential.

All of us understand what we mean by healthcare but it is important to distinguish prevention, which is about the causes of disease, pathogenesis and pathology, and about activities focusing on, for example, heart disease, stroke, cancer and tackling air pollution, and health creation, which is about the causes of health, salutogenesis, but not the causes of disease. I describe this as creating the conditions for people to be healthy and helping them to be so. Those causes include, for example, opportunities for social interaction; healthy working environments and development; being in touch with nature; having a meaning in life; relationships of all sorts; being well-fed and well-housed; the agency to act and decide, as opposed to alienation and anomie; and self-respect. We want healthcare, the vital services of the NHS, and the approach to prevention that this Government are moving on, but we also want the positives of actively creating health.

I have often quoted in your Lordships' House the saying from a great Ugandan doctor:

"Health is made at home, hospitals are for repairs".

Indeed, I know that the former Minister, the noble Lord, Lord Kamall, has quoted this back to me on occasion. It is a very valuable point. It is why I talk about a health-creating society and why I am promoting the Healthy Homes Bill. The first time I raised this in your Lordships' House was in a Cross-Bench debate on 26 November 2015, when I moved that this House takes note of the case for building a health-creating society, where all sectors contribute to creating a healthy and resilient population. There were many powerful speeches from all sides of the House. I believe we need this even more than ever, and that we are not going to make progress on health unless and until we recognise that creating health is as important as disease prevention and healthcare. Obviously, there are links and overlaps, but let us recognise these very important distinctions.

It is also worth noting that health creation operates at four levels: the health of each of us as an individual is intimately connected to the health of the local community in which we live, to the health of wider society and to the health of the planet. I will think about this while turning specifically to the Bill and its focus on health promotion and sport. Health promotion as usually described is generally about the individual, lifestyles, activity and diet. It is also about the important point that the noble Lord, Lord Addington, made about walking, rather than physical activity in general, which has been recognised since the Greeks as being vital to health. As the noble Lord pointed out, what he is proposing is also about sociability and bringing people together, creating purpose and creativity. I am pleased to see that he has included nature in the Bill. It is also about self-respect, being successful and achievement. All these factors are for the individual as well as for communities: bringing people together, sharing and community facilities. It is also about opportunities in a wider sense, and sport has long been a driver for social mobility. As he has drafted the Bill, it is also about the planet, nature and the environment.

I commend the noble Lord for the Bill, with its focus on health promotion, sport and wider physical activity, and for promoting a national plan for sport. This is not the whole story—of course it is not; he does not present it as if it were—but it is a very important part of a health-creating society. As he said very eloquently in his speech, the public get this; this is a win-win because people will understand why the Government, in creating a health-creating society, are promoting sport in this way.

I ask the Minister whether the Government will recognise that they need to think about three distinct elements of health—health services, prevention and health creation; each distinct but linked to the others—and whether they will promote health creation. Finally, I say to the Minister that many people and groups around the country are actively involved in creating health. Would he be willing to meet representatives of the Health Creation Alliance, which brings many of these groups together?

10.35 am

Baroness Uddin (Non-Afl): My Lords, it is a pleasure to follow the noble Lords, Lord Crisp and Lord Lansley. I applaud and thank the noble Lord, Lord Addington, for his leadership in pursuing this debate.

Like many noble Lords, I have spent a lifetime trying to improve health and social care in my backyard, alongside the work we do in this House. It would be remiss of me to not acknowledge the immense results

we achieved back in the early and mid-1980s, which saw great improvements, particularly in perinatal and postnatal mortality rates, immunisation and breastfeeding. Most of those changes are under much stress now, adding to the improvements required in maternity services, which need urgent attention, and to the gross disparities we have talked about in this place and elsewhere on health and well-being, as well as air pollution, mental health and long Covid, particularly for those people living with disabilities and from minority communities.

Alongside this, the dissatisfaction rate among the general population for our GPs and much-beloved NHS and A&E services suggests that services have become inadequate. There is a lack of good quality maternity services, with women unable to receive adequate care during pregnancy, childbirth and postnatal care; one can see the trajectory of the health and well-being deficit in the family being set very early on. This is worsened if there are disabilities, mental health and care needs, in addition to the bullying, racism and discrimination within the system and which staff experience. If this is embedded in the services, is it any wonder we are facing this crisis? If noble Lords are minded to underestimating the effect of racism within institutional structures, I ask the Government to speak with Dr Chaand Nagpaul prior to setting up the new office proposed in the Bill to ensure that we do not just consult but involve those who have a track record of achieving changes within communities, even with restricted and constrained resources.

The Health Promotion Bill contains potential and important milestones to achieve better services. However, I would like us to pay the requisite attention to ensure that the issues of workforce balance, leadership in commissioning and senior management, and board representation are given equal attention and support. I welcome this Bill and agree that the national plan must be integrated, as has been said. What it does not explain is how we will set and benchmark standards, how implementation will be monitored, or how this will be embedded within the equality framework. This must be based on an absolute commitment from the Government to address workforce balance and leadership in commissioning and senior management. This must be a perquisite to the changes that are required.

This new office can flourish only with the determination of better collaboration which integrates sufficient resources and a commitment to achieving this, and by placing at the heart of any changes the service users and leadership which reflects all the communities in which these services are based.

10.39 am

Lord Kamall (Con): My Lords, I congratulate the noble Lord, Lord Addington, on securing time to debate the Private Member's Bill. I approach this debate with three words in mind: apathy, sympathy and empathy.

Let us start with apathy. During the debate on the then Health and Care Bill, I reassured your Lordships of the Government's commitment to a national plan for sport and physical activity, and that it would be published later this year. I also informed noble Lords that the Government were working across departments—and I referred to the health promotion task force, led by the Health Secretary, and pledged to keep your Lordships up to date on the progress. I believe that it was this commitment that convinced my noble friend Lord Moynihan to withdraw his amendment.

Unfortunately, in response to a recent Written Question, the Department of Health and Social Care explained that the health promotion task force was not a part of an updated Cabinet committee structure. To be fair, the Answer also explained that the Government's *Our Plan for Patients* would address preventable ill health through collaboration across government and the National Health Service. However, it gives the impression that the Government's approach to health promotion now appears to be one of apathy—or, perhaps more kindly, lethargy. One of the ironies is that part of encouraging physical activity is to overcome individuals' apathy. Whatever the true picture, I am afraid that there is now a perception that the Government cannot be bothered to take health promotion seriously. I hope my noble friend the Minister will be able to address this perception head-on.

However, this is where I also feel sympathy—indeed, sympathy for my noble friend the Minister, since none of this is his fault. These decisions were made way above his pay grade. While noble Lords can attach no blame to him I hope that, by challenging the Government in this debate, they will empower him to raise your Lordships' concerns with his department and across government.

My disappointment at the Government's apparent apathy and my sympathy for my noble friend the Minister leads to my empathy, since I completely understand and share the concerns of the noble Lord, Lord Addington, in bringing forward this Private Member's Bill. I share the noble Lord's concerns about the lack of progress, but I am afraid that I will have to respectfully disagree with some of his Bill. One reason why I welcomed the establishment of OHID is because I hope that having the word "disparities" in the name of the organisation will force it to do what it says on the tin—that is, to identify and address health disparities, as the noble Baroness, Lady Uddin, said. This reminds me in some ways of the debate when many noble Lords asked for mental health to be explicitly on the face of the then Health and Care Bill, even though health is generally understood as both physical and mental health.

Whether we term it health improvement, health promotion or health creation, I know that noble Lords agree that it is important, but I hope that we can move on from the debate around health improvement, which seems sometimes to be reduced to the question of whether you burn off calories versus reducing calorie intake. It should not be a question of either one or the other. We can argue about the data and whether reducing calorie intake is more effective than physical activity, but surely the important thing is to encourage both. Indeed, some believe that physical activity may lead to less calorie consumption. A 2019 article in the *International Journal of Obesity* concluded that

"15-week exercise training appeared to motivate young adults to pursue healthier dietary preferences and to regulate their food intake."

[Lord Kamall]
But everyone is different. There are also studies of people with eating disorders doing excessive exercise followed by binge eating, so we really need to understand it at the level of the individual.

I think that most noble Lords would agree that we should all do more to encourage physical activity. Fortunately, a lot has changed since my youth, when it was about selecting the best and forgetting about the rest. If you did not make the first or second team, you were more likely to be discouraged and give up. Unlike the noble Lord, Lord Addington, I am unable to refer noble Lords to the register of my interests, although I really wish I could for this debate. I was still playing five-a-side football into my 50s and playing with people 30 years younger, and my wife expressed some concerns. I needed allies, so I went to see my physiotherapist, hoping that she would be my ally, and she said, "I'm afraid I agree with your wife—you should give up playing football with people 30 years younger than you." But that does not stop one from doing physical activities. Nowadays we see more clubs in local communities encouraging people to play sport, no matter their ability. We also see an emphasis on physical activity rather than just sport, encouraging individuals to find the physical activities that they enjoy the most—or perhaps dislike the least.

During my brief time in the Department of Health and Social Care, I became interested in the idea of social prescribing, helping people with physical and mental health conditions through the power of music, the environment, arts and physical activity. I recognise that there is scepticism from some clinicians, but I have heard of so many positive stories of people for whom it worked. But with an ageing population and increased pressures on the state, we should also remember that the state cannot do this all or alone. We need to encourage more local neighbourhood civil society groups, which better understand the people in their local communities. By asking the Government to be more involved, we should be wary that they do not squeeze out civil society but better co-operate and co-ordinate cross-government initiatives in partnership with it.

To sum up, I am disappointed by the Government's apparent apathy in promoting better health. I sympathise with my noble friend the Minister, since none of this is his fault, and I empathise with the noble Lord, Lord Addington, and his frustration at the lack of progress, even though I disagree with renaming OHID. I end with a question to my noble friend the Minister. Now that the health promotion task force no longer exists, how will the Department of Health and Social Care drive cross-government action to improve health outcomes?

10.45 am

Baroness Randerson (LD): My Lords, I thank my noble friend for his work on this invaluable Bill. I concentrate on the issue of sport, and general physical activity and its importance. I want to praise the Bill's emphasis on the importance of a cross-governmental approach.

Not surprisingly, given my remit in this House, I start with transport. It is no good encouraging people to participate in sport if they cannot access the facilities because there are poor or no public transport links. This issue applies in particular to young people. For example, at the end of the school day it is common to have sports clubs but, if you are a pupil who relies on the school bus to get home, you miss that school bus if you stay for the sports club. You then have to rely on the regular, scheduled bus service and, if it does not exist, you have no choice but to fall out of regular sport and of attending the sports club. That is one of the commonest reasons in schools why children stop participating in sport.

It is also very important that local authorities develop good, safe and active travel routes for cycling and walking. At issue is not just the existence of public transport facilities but the cost. If the bus fare is too expensive, young people and adults are not going to be able to afford it. There has to be cross-local government thinking on this.

I also emphasise the importance of location. A sports club being in the centre of a town or city is often much more important than the size of its pitches. It is where it is that is so important, rather than how big it is. I give you the example of my own home city of Cardiff which, because of a wonderful donation hundreds of years ago by the Earl of Bute, has an enormous park in the centre. There is the Sport Wales National Centre, Glamorgan Cricket Club and rugby facilities in the centre of the city, all within a short walk of the Central station and near where all the buses start and stop.

My second point relates to my time as Sports Minister for Wales from 2000 to 2003. We started work on a sports and activity strategy specifically linked to promoting good health. As part of that work, we did an analysis of grant funding from what was then called the Sports Council for Wales. On the face of it, it all looked okay. We did proper due diligence, and officials checked that the money had properly been spent, and so on. There was nothing suspect or dubious, such as VIP lanes. However, I could immediately see, at a glance, that it was badly skewed towards football, rugby and cricket—male-dominated sports—and very often to areas that were more prosperous. A proper alternative analysis showed that the vast majority of money went to men and boys' sports clubs which were well established and had buildings, facilities and pitches of their own, and so on.

So, on equality issues, Sports Council funding failed women, girls, young people, people in poorer areas and people with disabilities. It also failed newer sports and their development—the sort of thing more likely to bring in a wider range of people. In other words, it failed the people and communities who needed it most. We therefore had to rethink the whole thing, putting equality at the centre of it and making sure that we addressed the issues of capacity to make bids and so on. We set up a small bids fund for small amounts of money, for example. I emphasise, therefore, the importance in Clause 1 of the reference to tackling discrimination. That is a key part of this Bill.

Finally, the Bill states in Clause 3 that it extends to England and Wales. I raise this question with my noble friend, because health, sport, education, transport, housing and local government are all devolved to the

Welsh Government and Senedd. It is therefore important that we take into account that there is variability across Wales, and that this would need a legislative consent Motion from the Senedd if it were to become law. I will end with this thought: Wales is small enough to be a very good pilot project for this way of thinking.

10.51 am

Lord Moynihan (Con): My Lords, I refer my interests as set out in the register. I congratulate my noble friend in sport, the noble Lord, Lord Addington, on securing this debate and introducing a Bill that seeks to take forward one of the main recommendations from the House of Lords National Plan for Sport and Recreation Committee. The noble Lord has made a strong case for the measures contained in his Bill, which builds on then Prime Minster Boris Johnson's commitment that the new office for health promotion, which began work earlier this year, should tackle the causes, not just the symptoms, of poor health and improve prevention of illness and disease.

As we have heard in earlier deliberations on the subject in your Lordships' House, the then Minister, my noble friend Lord Kamall, who did an excellent job in government, emphasised the Government's commitment to developing a national plan for sport and physical activity, informing the House that it would be published "later this year". As he would agree, and indeed accepted very honestly in his contribution just now, we are fast running out of time. One reason, which the committee recognised, is that, departmentally, sport lies on the fringes of the Whitehall machinery. The case for sport and recreation to be moved to the Department for Health and Social Care has once again, this year, demonstrated that we need a concerted, co-ordinated and cross-departmental effort, placing sport and recreation at the centre of a proactive health policy. The benefits are clear to your Lordships, but that has sadly withered on the political vine.

We may have hosted a great Olympic Games in 2012, yet we have not, beyond even the imaginations of the most optimistic observers, been able to deliver a sports legacy for this country. One-third of the adult population receive less than two and a half hours of moderate activity per week and schoolchildren face unprecedented levels of obesity and inactivity, with PE marginalised and woefully inadequate primary school training for teachers—less than three hours in a three-year course. That has all combined to the point where the chair of our sport and recreation committee, the noble Lord, Lord Willis of Knaresborough, concluded in this House that we have become

"one of the most lazy, inactive nations in the modern world."—[*Official Report*, 4/2/22; col. 1208.]

So I would like to put a number of questions to my noble friend the Minister today. I accept that he is not responsible for enacting the outcome of these questions, but it is an opportunity for the House to hear the reasons why we continue to slip further behind countries around the world in promoting participation in sport. None of us is talking about elite sport; we are talking about participation. It is there where we need to develop measures to ensure that sport and recreation facilities operate as safe and non-discriminatory environments. We need a healthier, more proactive population, yet we have dropped the clear benefits of implementing the Prime Minister of the day's full commitment to establishing an office for health promotion, to place prevention through an active lifestyle in all its connotations at the centre of our approach to the National Health Service.

I therefore ask the Minister: what work has been undertaken by the DfE to increase the number of schools making physical activity facilities available to communities after school, at weekends and during the school holidays through the opening of school facilities programmes? How many schools have built closer and reciprocal links with local, grass-roots sports clubs? Where is the physical activity facilities strategy, capable of improving everyone's access to opportunities to be active? Can the Minister report on whether we have doubled the Sport England local delivery pilots this year—or can he at least indicate what progress has been made on this fund? Have the Government moved forward with the healthy schools rating scheme, strengthening the physical activity elements, improving the response rate and increasing its visibility and use among schools?

Does the Minister agree that the DfE should pursue a six-sports pledge to promote the ambition that all children experience at least six different types of sport and physical activity through curriculum PE, extracurricular and out-of-school provision? Why did the Government drop the idea of introducing a summer activity challenge, linked to schools and holiday provision, and creating a 10-week summer activity programme this year and beyond for every school child, not just the enthusiasts? What additional active travel interventions have been delivered this year to promote health and well-being in society as a whole?

What is the current status of social prescribing—admirably referred to by my noble friend—and how successful have the pilots been? Is it the intention to roll these out nationally, because they should be? What is the current level of cycling training programmes for children, which was announced over a year ago? Has Bikeability reached its objective of widening participation from its baseline of 60%? What has been done to embed active design principles into national planning guidance as part of the review of the National Planning Policy Framework?

These are just a few of the vitally important areas that my noble friend in sport—as I always refer to him—the noble Lord, Lord Addington, seeks to embed in his legislation into the office for health promotion's activities. Can the Minister report why sport and recreation are still on the fringes of government? Why has this portfolio not been moved to a department of state, in this case the Department of Health and Social Care, and why are we destined to reflect that, despite the cross-party support in your Lordships' House, we meet today, 10 years on from the hugely successful London Olympic and Paralympic Games, having failed to take forward a true sports legacy?

The Bill of the noble Lord, Lord Addington, is not only necessary but signals to the Government the need to act—if it is not already far too late. I wish my noble friend the Minister well in persuading his colleagues and ensuring that the current Government deliver on the undertaking that Prime Minister Boris Johnson publicly welcomed.

10.58 am

Baroness Bennett of Manor Castle (GP): My Lords, I rise to make the range of cross-party and indeed non-party support for this Bill even broader. I thank the noble Lord, Lord Addington, both for bringing it and for introducing it so comprehensively.

The noble Lord, Lord Crisp, made a powerful point when he talked about prevention of ill health; he then got to the point where we really need to be when he emphasised that physical activity is absolutely crucial to well-being and a healthy society.

Ahead of today's debate, I looked back to a speech that I gave in July 2015 to the University of Manchester's Festival of Public Health UK, which was in fact an international event. I said then that we have in the UK

"a society that's making … its members ill. A society that's failing to provide clean air … adequate housing … a healthy diet … safe jobs and decent benefits … opportunities for exercise … an education that prepares pupils for life."

Seven years on, I do not believe that there is a single measure that I set out then on which we have seen positive progress, which is extraordinarily terrible—although I note that it is not through want of the efforts of my noble friend Lady Jones of Moulsecoomb. Indeed, this House has, with broad support, just put through the Clean Air (Human Rights) Bill. I hope that that might be one area where we could see very rapid progress.

I shall concentrate in my speech on sports—appropriately, since the noble Lord, Lord Addington, is such a champion in your Lordships' House in this area. I stress the need to change the conversation. I was on the politicians' panel on BBC's 5 Live this week. For reasons that my accent makes obvious, perhaps, there was a discussion of the England-Wales World Cup game to which I was not asked to contribute. However, had I been asked to contribute, what I was sitting there bursting to say was, "Where is the huge programme around this high-profile event to get people out, during and after the event, kicking a ball around, throwing a ball around, running around, as people are watching so many high-profile celebrities doing on television now?" That was one question, but another question, which other noble Lords have already raised, is: where will people, particularly children, kick that ball? Where will they be able to run around?

I submitted a Written Question to the Cabinet Office on 24 November:

"To ask His Majesty's Government what assessment they have made of the public health impacts, including on loneliness, lack of opportunities for physical activity and provision of services locally … of the sale of public buildings and spaces each year in England."

I got the Answer a couple of days later, quite surprisingly; it perhaps suggests not a great deal of involvement. I was told:

"Any decision … will consider social cost and public value, in line with HM Treasury Green Book guidance."

I think the noble Lord, Lord Addington, is really making a point in this Bill about the need for a change of mind in the Government: they need to regard physical activity and sport as a crucial issue, which I do not think the Answer I received suggests that they currently do.

This is not a new situation. I draw noble Lords' attention to an interesting campaign just launched by the Carnegie UK Trust and Fields in Trust charities, with the hashtag #FieldFinders. It is looking to find lost playing fields. Between 1927 and 1935, the Carnegie UK Trust gave nearly £200,000—£10 million in today's money—for nearly 900 playing fields across the UK. It is interesting because, as is often typical with history, it did not keep a record of where they all are, so now it is asking the public to help find them and, very interestingly, to find out how many of them are still playing fields. Because that money was given so that those fields would continue to be in use in perpetuity. I think I can guess the result: it will find that many of them will not now be playing fields.

That is focusing on playing fields, but of course the space that is very near every child, every person, is a road. Again, we have seen not government leadership in this area but civil society leadership in the form of the Play Streets campaign, which started in Bristol in 2011 and has since grown around the country. This is a scheme by which streets are temporarily but regularly closed off to become sites of play, organised and managed by people in the neighbourhood. Of course, these are not just sites of play; they are sites of interaction. What this campaign is saying is that we need a long-term culture change: it needs to be safe for children to play out on the streets all the time.

I say many radical things in your Lordships' House; I suspect that many might regard that as the most radical, but let us think about recapturing the streets for people. That is the space we all need to be able to use freely, without danger, and, circling back to my noble friend's Bill, in a clean air environment. That would be a huge step towards a radical society and one which, as the Bill of the noble Lord, Lord Addington, makes clear, is absolutely a government responsibility.

11.04 am

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to take part in this Second Reading and, as other noble Lords have done, I congratulate the noble Lord, Lord Addington, who is a champion for sport both in Parliament and, still, on the pitch. I also congratulate all members of your Lordships' Select Committee on the National Plan for Sport and Recreation, which produced such an excellent report, as pertinent today as on the day of publication.

The Bill has two significant underpinnings. The first is to place this in the Department of Health and Social Care, a significant spending government department. The second is that we need a cross-government, cross-Whitehall effort. This is often the case for a number of policy areas and, to my mind, in recent history has really happened only twice. The first was the tremendous effort that everybody across government made with the Covid pandemic. The second, 10 years ago now, was the cross-Whitehall effort for the London 2012 Olympic and Paralympic Games. Why was there a cross-government effort for that? People wanted to be involved and wanted to make it a success.

What we were trying to do in 2012 was not just to have a sensational summer of Olympic and Paralympic sport but to try to do what no previous Games had

done and drive a legacy of participation. We achieved something but by no means did we achieve everything, hence why we are where we are today: an obesity epidemic; a type 2 diabetes crisis; stroke and heart attack. I will not go on, but we as a nation cannot go on like this, which is why the Bill is so significant. First, I ask my noble friend about the name of the office. Would it not make sense to follow the excellent recommendation of the noble Lord, Lord Addington, that it should be the "office for health promotion", as it was initially going to be? Certainly, the government response is uncompelling as to why that name does not encapsulate everything we are trying to achieve with this body.

Similarly, on the prescription of exercise, can my noble friend the Minister tell the House how successful that is currently, how widespread it is and what the department is doing to put it on absolute turbocharge to ensure that it is available to everybody up and down the country? The Bill rightly highlights the importance of detection. What is being done to have a culture across society of scanning and screening to stop disease and early death in their terrible tracks? There is much we can do, as the Bill indicates, with data and new, innovative technologies, so what is the department doing to foster an ecosystem, a culture of exploration and of concept proofing across the public and private sectors to bring forward all the possible ideas in this area? Wearables is an obvious example. What is being done to ensure that all those involved have the right level of data and digital education? I know it is not my noble friend's department, but what is being done to ensure effective data and digital education right from primary school onwards?

The clue, in many ways, is in the name: "sport" is a contraction of "support". What the Bill offers is support for every citizen across the country—enabling and empowering through exercise, physical well-being and the mental well-being that flows from that. We cannot go on like this. We do not have to go on like this. We have a choice. In this straightforward, significant Bill, we have an important part of that choice. Let us take it.

11.09 am

The Earl of Devon (CB): My Lords, I add my thanks and congratulations to the noble Lord, Lord Addington, on bringing forward this Health Promotion Bill, encapsulating as it does many of the major recommendations of the National Plan for Sport and Recreation Committee. I was privileged to be a member of that committee from January 2021 until the publication of the report almost exactly a year ago.

Having revisited the report in preparation for today, I note how increasingly urgent its recommendations have become. As the ravages of long Covid scourge the nation, putting ever greater numbers on long-term sick leave, as the cost of living crisis and food inflation put a healthy diet out of reach for more and more families, as the cold chill of winter takes grip, with fuel prices skyrocketing, and as access to the NHS becomes ever more inaccessible, the health and well-being of our nation has never been more important. As living standards crumble before our eyes in the face of national and global headwinds, we need to build our resilience. This Bill does just that. I therefore strongly support it and condemn the Government's apathy, as highlighted by the noble Lord, Lord Kamall.

I note my interests as listed in the appendix to the report and offer my huge thanks to the witnesses who contributed evidence during those dark and Zoomful days of the pandemic, among them schoolchildren, sports coaches, academics and even the odd world political leader. We were excellently chaired and extensively chivvied by the noble Lord, Lord Willis, wisely advised by Dr Mackintosh and energetically enabled by the dedicated team of Michael, Katie and Hannah. I thank them all.

The office for health promotion must sit within the Department of Health and Social Care and have responsibility for the national plan for sport. DCMS has for too long championed sport in this country as commercial high-end entertainment. As the football Premier League has shown, the UK has achieved unparalleled success in the highly leveraged global super-leagues of sport, but it has made us no healthier as a nation. It has made footballers and overseas club owners wealthier, but the nation is no fitter.

Just look at rugby union, a sport I once played at the dawn of the professional era. Its leading clubs are once more going bankrupt, it has brutalised its workforce through excess physicality and it has detached from its grass roots in pursuit of an audience and TV revenues. Even the legacy-laden London Olympics saw only a per cent or two increase in sports participation, while the numbers of those volunteering, coaching or officiating in sports actually declined.

This trickle-down approach to health promotion through sport has simply not worked. It is at local, community level that focus and funding must be directed. Physical literacy must be on a par with reading and maths, teachers and schools must be equipped to facilitate such learning and school fields and sports halls must be funded and treated as key community infrastructure, not locked and left to idle. Local travel must be active; close to two-thirds of Dutch children cycle to school, compared to only 3% of English children. Their weather is no better than ours, but their cycle paths are. We must also remember that sport and physical activity need not be competitive. We must not fetishise winning at all costs over participation and the inclusion of all in physical activity, as the noble Baroness, Lady Randerson, noted.

I was proud to bring a Devonian voice to the committee and was keen to highlight rural access, one of the favourite provisions of the noble Lord, Lord Addington. Farmers and land managers must be funded and encouraged to provide wider access to our countryside and all the physical and mental well-being that can be obtained therefrom. Wordsworth knew its worth. However, this access must not cost our biodiversity or the provision of healthy, nutritious food. That means it needs to be consensual, planned and permitted access, delivered in concert with local communities.

Rural land management is undergoing a generational upheaval. We must harness the well-being opportunity through social prescribing, environmental land management, proper planning and transportation reforms, all of which need to be coherently co-ordinated. This

[The Earl of Devon]
excellent Bill might just achieve this, so I recommend it to your Lordships' House. In light of the completion yesterday of the Government's ELMS review, can the Minister provide any detail on the funding and support for public access and social prescribing under the newly regilded environmental land management scheme?

11.14 am

Lord Hayward (Con): My Lords, it is a pleasure to support the Bill introduced by the noble Lord, Lord Addington. It encapsulates the work of the committee of which a number of members have spoken today. I will introduce an element of dissent with the noble Earl, Lord Devon; he said he introduced a Devonian voice—I got there first. With that minor correction, I agreed with everything else he said.

The message has come loud and clear from a host of speakers that we need to tackle the issue of sport and exercise, not at the top level but at the lower level. This is encapsulated in Clause 1(3)(a), to

"identify and address health disparities".

These health disparities were covered well in the report and touched on very clearly by the noble Baroness, Lady Randerson. She identified that there is, in effect, a marked difference between male and female participation and a difference in terms of class—higher class levels clearly participate to a level that lower class levels do not. There is a massive deficit among the ethnic communities. It is probably the failing of our report that we do not address that well enough or recommend any solutions, because we really need to turn our minds to that group of people—the ones who do not participate in physical activity of any form.

While we have been debating this Bill, I think I am right in saying that seven groups of schoolchildren have come to listen. I wonder how many of them participate in any physical activity at all and how many will continue to do so after they leave school. For me, that is the key issue in terms of overall societal health.

The noble Baroness, Lady Bennett, commented on media coverage. She is absolutely right that the coverage of our sport, whatever event it is, before and after the actual event involves discussions of people at a high level—what they did and what they are doing at that high level. There is no attempt to look at how they got there or how they started at some community level. They do not go back and say, "This is the pitch I played on and these are the people I now want to encourage."

The contrast in this country is stark. I am an avid fan of viewing US college football. In the four or five hours every Saturday before the matches, a substantial segment is allocated to looking at people who have come from severely deprived communities and what they are putting back into them. I ask the media to look very seriously at how they cover sport, because it should be so much more inclusive. It would be better for all of us and better for society in general.

11.19 am

Lord Storey (LD): My Lords, I start by thanking the Whips for allowing me to speak despite my late arrival. I perhaps needed healthcare when I arrived: I left Liverpool on the 7 am train, which was supposed to take two hours but took two hours and 45 minutes, and my dash from Euston station got my heart going. I also thank my noble friend Lord Addington for this important Private Member's Bill. Given the comments from noble Lords, it seems to have support right across the House and I hope the Government will take note of that.

Having heard all noble Lords speak, it seems that we have the strategy in front of us. I have listened to all the comments made and, along with the Select Committee, your Lordships seem to have come up with a strategy. We heard from the noble Earl, Lord Devon, about the importance of funding at a local community level; the noble Baroness, Lady Bennett, about recapturing the streets; the noble Lord, Lord Moynihan, about schools and opening schools—I shall come to education in a moment; and my noble friend Lady Randerson. A couple of days ago, she said to me, "I'm going to talk about a very niche area", because I wanted her to wind up for my party. I say to my noble friend that it is not a niche area; that is what we should all be doing, not just in Wales, where it has been done, but right across the UK. I thought the noble Lord, Lord Kamall, was very brave and honest in his comments about apathy from government. It is not just the current Government; I think we have seen apathy from all Governments in this regard.

A report was published today by the Sutton Trust—which regularly does surveys of opinion and polling on education matters—about the impact of the rising cost of living on pupils. One of its interesting comments was that, in state schools, 74% of teachers have seen an increase in pupils who are unable to concentrate or are tired in class, and 67% saw more students with behavioural issues. There are lots more comments in that report. If we dug down a bit deeper, we would find that the majority of those students come from poor backgrounds or disadvantaged homes. One of my concerns is that, if I look at my home city of Liverpool—a number of noble Lords spoke about this issue—the facilities are mainly geared to a handful of sports. For example, football, in the main, predominates; I do not see hockey pitches or netball courts there. It is also very unfair to women, as the facilities are mainly for men. If you go to other facilities in the local cricket clubs or tennis clubs, you see—I never know what the correct term to use is—very few young people from ethnic backgrounds and very few from disadvantaged backgrounds. We have to open sport up to those people. We have to make sure that people from disadvantaged backgrounds go to those clubs and are welcome at them, and we have to have the facilities.

I have often thought that if we want to change the way we do things in sport, we cannot just sit there, waiting and hoping that somebody coming from Norris Green council estate will come to the club. We have to create a link for them and schools are best placed to do that. The noble Lord, Lord Moynihan, suggested the importance of schools operating Saturday clubs, but I think we also need outreach work for those young people. Imagine if those young people were visited, encouraged and taken to those facilities, because transport and getting to them is a huge issue—those figures that I just read out would be different. The best way to deal with mental health is to be physically engaged in

activities. The best way to deal with the problems of disadvantage is to get people into sport, and we are not doing that. That is a great shame.

During Covid, we saw a dramatic decline in the number of children from disadvantaged backgrounds attending schools; many have not gone back to school. They have said to their parents, or parent, "I don't want to go to school. I've got problems, and I want to stay at home", and the parent has then used the excuse of home education, or home tuition, to keep them at home. Thousands of children from disadvantaged backgrounds are "home educated", but they are not—they are just languishing at home. Again, imagine if we could involve those children in sport, using our schools and encouraging them. We would see a huge change.

I wish my noble friend Lord Addington well with the Bill. He has huge support across the House, and I am sure he will score many goals.

11.25 am

Baroness Merron (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Storey, particularly his closing remark. I also congratulate the noble Lord, Lord Addington, on bringing the Bill before the House today. I believe it seeks what many in the Chamber have said repeatedly—not just today but on many occasions—from a whole range of experiences, and always with the same focus: having a co-ordinated approach to improving our health as individuals, as communities and across the nation.

The noble Lord, Lord Lansley, talked about the need for a cross-cutting priority across government. We have heard about that many times, and it is right to remind us again today that it is what is needed. I know that is what the noble Lord, Lord Addington, is seeking to achieve. Similarly, the noble Lord, Lord Crisp, talked about the need to create good health and environments, and I am sure we are all aligned on that.

I was interested to read in the Library briefing, for which I was most grateful, that when the body we are discussing and referring to in the Bill was initially announced by the Government in March 2021, it was due to be called the office for health promotion. I know that the noble Lord, Lord Addington, is suggesting that we should return to that. I realise that this is before the Minister's time, but it might be of assistance to your Lordships' House if he could give us any information today as to why it migrated to a different title.

The noble Earl, Lord Devon, the noble Lord, Lord Hayward, and other noble Lords spoke about the report of the House of Lords National Plan for Sport and Recreation Committee, which was a very welcome contribution. However, it is one thing to make that contribution and another to see action; I think that has been emphasised today. That committee called for the development of a long-term, cross-government national plan for sport, health and well-being, and this debate has been calling for exactly that. The committee also heard evidence that cross-departmental co-ordination is not working, delivery is fragmented and access to funding is complicated and overbureaucratic. Could the Minister indicate what will be taken from the report that has already been done and how progress will be made in all those areas?

There seems to have been a backward move over the past number of years, not least as we see plans being scrapped or pulled back. I refer in particular to targets on obesity, which are not being met; the promotion of less healthy foods, which is now to be allowed to continue for longer than originally anticipated; the Government being seven years behind their target of a smoke-free 2030; and, as we have heard many times, the fact that we still await—I assume it is no longer going to appear—the health disparities White Paper. In all these areas, we need to see more action, but we are seeing a backward trend. Perhaps the Minister could give us some heart in this respect.

We also know that there have been considerable cuts in the public health budget, smoking cessation services having been particularly hit. There are at least two figures circulating about the size of the smoking cessation cut, but none of them is less than one-third. Why have there been cuts in the public health budget and why have they particularly hit smoking cessation services? Can he also confirm his understanding of the amount being cut and what we can look forward to in the future?

A number of noble Lords referred to the World Cup inspiring us at present and bringing us together as a nation. That is true, and we also very much saw that with the Lionesses. While the Minister should take seriously the urgings from noble Lords who have spoken today to give sport the attention it deserves, it is crucial, as many have said, that we broaden this to thinking and talking about recreation and, in particular, physical activity. The noble Baroness, Lady Randerson, made particular reference to women and girls, who may be less inclined to be involved in organised sport but nevertheless need to be supported, encouraged and enabled to take part in physical activity.

I pay tribute to the noble Lord, Lord Addington, for his tireless campaigning and look forward to the Minister's response.

11.31 am

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): Like the noble Lord, Lord Addington, I would like to declare an interest in that I still play rugby. If noble Lords take nothing else from this debate, I hope they will find that they have another willing, if perhaps not that able, rugby player to join the team. I hope that my contribution on the pitch will elicit a bit more than apathy, some sympathy and maybe a bit of empathy from my noble friend Lord Kamall. As a keen sportsman, I thank the noble Lord, Lord Addington, for providing the opportunity to debate this important issue. I hope I can do rather better than his impersonation of what I might say in this debate.

On the rationale for OHID's creation, I must admit to not knowing the genesis or etymology of the change of name, but I will find out. As we know, it was established in 2021 as part of the Department of Health and Social Care, following the closure of Public Health England. Its core aim is to reduce preventable ill health and health disparities. It works towards this under the professional leadership of the CMO, which we felt was key, and the director-general of OHID within the department.

[Lord Markham]

Many noble Lords, including my noble friend Lord Lansley, asked why it was felt that it would be more effective as part of the department. When reforming the public health system, this was carefully considered. This was before my time, but my understanding is that many stakeholders were engaged in this and the feeling was that having it as an in-house, in-the-tent department was the best way to go. The option of creating an arm's-length body to sit alongside the UK Health Security Agency was considered, but it was felt that establishing those functions within government outweighed the strengths of an independent ALB. The fear was that the proposal outlined in the Health Promotion Bill would create an office for health promotion with limited advisory functions. This would simply replace or duplicate many activities which are already under way in OHID.

In forming OHID, we were clear about the distinct advantages of convening functions—something I have become very aware of in the short time I have been a Minister—and the ability to access expert advice, analysis and evidence, alongside policy development and implementation. The decision to make OHID a core part of DHSC was taken because influence and proximity to decision-making matters. In addition, advice is offered widely from across the system and there needs to be a mechanism for summarising it for Ministers.

OHID is empowered to work across national government, using evidence to influence policy and ensure greater consideration in cross-government decision-making of the links to and importance of preventing ill health and tackling disparities. We only have to think of policy considering the health impacts of housing, the potential of indoor and outdoor air quality to promote or negatively impact health, and the consequences of ill health, including for high levels of economic inactivity, for current and important examples. OHID is taking action on the major preventable conditions which drive ill health and early death, including cardiovascular disease and some cancers, and the risk factors that cause those conditions, including tobacco, obesity, alcohol and drugs. OHID does this work alongside local government, the NHS, academia and industry.

I would like to highlight some of the achievements that have resulted so far. To answer my noble friend Lord Kamall's point on the health promotion task force, the real north star for the cross-government action we see now was publication of the levelling-up White Paper and the commitment in it to improve healthy life expectancy by five years by 2035 and narrow the gap by 2030. This provides a clear, ongoing framework and commitment—covering DfE, DCMS, DWP, BEIS, DLUHC and the Department for Transport to name just a few—to work across government and really address the major drivers of ill health.

Last December, we published a cross-government drug strategy, backed by new investment totalling almost £900 million over three years, with more than £500 million for local authorities. They are required to provide 54,500 new drug and alcohol treatment places over the next three years. Going back to last week's debate on tobacco, my belief is that we are on target for our smoke-free objectives, but again, I will check on this and confirm. Another great example is our effort to tackle health inequalities early on. The investment of over £300 million in family hubs and Start for Life will deliver new and expanded family health networks in 75 local authorities.

We are improving joint local working on population health and reducing health inequalities through integrated care systems. This includes an expectation that local directors of public health will play a vital part in informing the strategy developed by the integrated care partnership and the forward plan of the integrated care boards.

In all of this, as was so wonderfully put, exercise is the "wonder drug". We really recognise its importance. That came through very strongly in the contributions of many noble Lords. The drivers of physical inactivity are deep-rooted and influenced by the places we live, work and play in. Change will not happen overnight.

During preparation of the national plan for sport and recreation report, which lays the foundations for the Health Promotion Bill, noble Lords provided the Government with plenty to consider. The evidence is clear that physical activity is good for health. Being active offers wide social benefits, brings people together, maintains friendships and through active travel, as was mentioned, can help connect people and places. We remain committed to the former Prime Minister's commitment on active travel.

As we are all aware, activity levels have declined due to the pandemic—I am probably more aware than most of how hard it is to get 15 out on a rugby field on a Saturday. This is not good for children's healthy development and is putting adults at greater risk of disease. Furthermore, there is a disparity in physical activity levels, as was identified by many speakers. This affects groups including women, older people, people living with long-term conditions, people from lower-income areas and people from black and Asian ethnic-minority groups. The Government recognise the challenge and the renewed efforts needed to ensure people have the access, opportunities and motivation to be active in their everyday lives. Our commitment to the sport and physical activity agenda will continue.

In quarter 1 of 2023—not quite 2022, I accept—the Government will publish a new sport strategy and a new school sport and activity action plan. We believe there is an opportunity for this refreshed strategy to focus on two areas: strengthening action to address inactivity levels, and making the sector more sustainable for the future. We will continue to proactively engage across government and with the wider sector to effectively inform and shape the strategy. This will allow us to ensure that action is focused on the key issues and the right direction for the future.

As mentioned by the noble Baroness, Lady Bennett, everyone should have access to local, safe and inclusive opportunities to play sport, get active and stay fit to benefit their health.

At the heart of the government policy on physical activity are the UK Chief Medical Officer guidelines, which set out how much and which forms of physical activity are essential across a healthy life course. Through our work on the Everybody Active, Every Day physical

activity framework there is consensus that long-term, system-wide action is required; physical activity is everyone's business.

The Government provide primary schools with £320 million per year for PE premium and school active sport, to support schools to provide high-quality PE and at least 30 minutes of physical activity within the school day. This is at the heart of the school sport activity programme, which enables schools to use a whole-school approach to embedding PE and school sports. I will write to my noble friend Lord Moynihan on the specific points he made on access to those activities.

Our action includes continuing to provide ways for people to access local parks and green spaces through the Department for Transport's walking and cycling initiatives, and the setting up of Active Travel England to support local councils to help people walk and cycle to work, the shops and to school.

Our world-leading digital and social media campaign Better Health provides digital resources and signposts to opportunities to support people to start to become and stay active. As I have part of the digital agenda, I will look to the use of wearables as another way in which we can increase participation and information. Digital health behaviour change approaches such as Couch to 5K have now had 5 million downloads, and Active 10 provides opportunities for people to build up activity levels.

We recognise that progress has not always been as fast as we would like. Our plans should help to change that. Sport and physical activity are golden threads that run through and align actions of government departments, local government, the NHS, sporting bodies and communities. Understanding the data and evidence on what works and what does not is vital to delivering our ambition to shift the status quo and address inactivity. By doing so, we can create access to more opportunities for everybody, especially people living in underserviced communities, to enjoy leading more active and healthier lives.

I am aware that many questions have been raised in this debate. As a new boy I understand that my response to a Private Member's Bill is slightly different, but nevertheless I commit as in other debates to follow up in detail and writing on all the points, because I want to make sure that the points raised today have an appropriate response.

It is a privilege to be speaking after such accomplished speakers: some of the sports athletes here today, former Ministers and Secretaries of State for Health, chairs of sporting organisations such as ukactive and others, and top health professionals. They make my Saturday afternoon rugby efforts look rather weak in comparison.

We are all united in wanting to find the best way to promote healthy living through sport, education and active lifestyle. I know we want the same thing, which was probably put best by the noble Lord, Lord Crisp, as health creation, prevention and services. Some strong and passionate views were expressed on that and some excellent points were made.

I think noble Lords are also aware that I have a very broad background, with many leadership roles in businesses, charities and arm's-length bodies, and I have been involved in four government departments and now government itself. Honestly, I have seen many different organisational models, both centralised and decentralised, setting up ALBs and having departments inside government. I can say from personal experience that in every one of those, in each instance it took a while for a new organisation to bed down and become effective. It took probably at least a year before you could really see its effects, and I believe that is the same in this instance. Therefore, while I understand and support the reasons expressed today, it is important that we need to give OHID time to take root, to see the publication of the sports strategy by DCMS with our involvement in quarter 1, and judge it on the results. However, I undertake, having listened to this debate today, to come back to the House and speak again on this subject when I believe it has had a proper amount of time to see whether it is working or whether we need to think about some other ways of setting it up.

For these reasons, I maintain my belief that the best way to achieve the objectives set out—which, as I said, were described so well as health creation, prevention and health services—is by OHID as a key and central part of government.

11.45 am

Lord Addington (LD): My Lords, I thank all noble Lords who have spoken in this debate. I look forward to the Minister, as a new boy, playing alongside me in the parliamentary team; the Scottish Parliament team is coming down on the Calcutta Cup weekend, so he should be ready.

It is quite clear that there is a groundswell of opinion that says that something coherent should be done about the lack of structure behind recreational activity and the fact that it should be linked to public health. The Government tell us that they have a new approach, but unless it is prepared to upset things or has the capacity to interfere with other plans and make sure that it comes to the fore, my experience is that it does not happen unless you are prepared to say, "No; you've got to work with this and integrate." The Government like their Chinese walls. They do not like to be interfered with in any way. I therefore suspect that the Government's approach might dent things a bit but not actually move them.

I could say more about all the friends in sport, to use the expression of the noble Lord, Lord Moynihan—we have acquired a couple today. We have taken a step forward. I also thank my noble friend Lady Randerson for the justified smack on the wrist. Making sure that we tackle discrimination is part of the Bill, but without that being recognised you will miss groups. You will miss the fact that in the big team games both genders are now represented, but not well enough, not integrated enough, and with not enough emphasis. There are more than those dominant sports, and we should go out from them.

I remind the House that when all three major political parties looked to their sport strategy about 15 years ago, we all came up with documents and you could literally swap paragraphs in them, putting them in and taking them out. One of them was that sport at school should not only be linked to your local clubs

[LORD ADDINGTON]
but you should try a range of sports, culturally attuned to your area. Unless we do that and have the capacity to carry it on—and many of the other things in the Bill are required for you to do that—you will always miss out. If you have somewhere where you can take exercise and a support structure with good role models to help you through, it will help mental and physical health—it is proven. At the moment the Government have a suggestion that says, "Yes, it's quite good", but they do not have enough capacity for intervention within their structure to do it. I hope I am wrong but experience tells me that I am not.

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

School (Reform of Pupil Selection) Bill [HL]

Second Reading

11.49 am

Moved by ***Baroness Blower***

That the Bill be now read a second time.

Baroness Blower (Lab): My Lords, I declare my interest as a patron of Comprehensive Future.

Although this Bill concerns a relatively small section of England's schools, it is concerned with a significant principle about how our education system and service is organised. I believe profoundly that it is an important principle that the education service should provide access on an equitable basis to all children and young people. This is not, of course, what happens in the 35 local authorities where access to certain state-funded schools is on a selective basis.

The majority of the most successful education systems globally are of a comprehensive nature, meaning that, post their primary education, where there is virtually no selection, all children are welcomed by their local school—although I will address the issue of special schools later. Professor Stephen Gorard and Dr Nadia Siddiqui from Durham University have looked into selection. They conclude that

"pupils attending grammar schools are stratified in terms of chronic poverty, ethnicity … special educational needs and even precise age within their year group. This kind of clustering of relative advantage is potentially dangerous for society. The article derives measures of chronic poverty and local socio-economic status… between schools, and uses these to show that the results from grammar schools are no better than expected, once these differences are accounted for."

Gorard and Siddiqui further conclude that:

"The UK government should consider phasing the existing selective schools out"

in England. Such an opportunity is afforded by this Bill.

Comprehensive schools raise the attainment of all children. More children do better in a comprehensive system. The attainment gap, which has increased since the pandemic, between disadvantaged and more advantaged pupils, is narrower in comprehensive schools. Figures from the DfE show that non-selective—that is, secondary modern schools in selected areas—produce poor results, statistically significantly below the national average because of the nature of their skewed intake. Research from the University College London Social Research Institute shows that access to grammar schools is highly skewed by a child's socioeconomic status, with the most deprived families living in grammar school areas standing only a 6% chance of attending a selective school. Interestingly, Gorard and Siddiqui note that their

"analysis also shows that the chances of accessing a grammar school vary hugely by family background, even when we compare children who have the same attainment at age 11"—

or possibly 10—as determined by key stage 2 stats.

Access to grammar schools by pupils from wealthier backgrounds is also likely to be associated with additional private tutoring that is not available to their economically disadvantaged peers. Therefore, the 11-plus has become a test that favours those with the ability to pay for tuition, a suggestion supported by the fact that only 3% of children in grammar schools are entitled to free school meals, the most widespread proxy for poverty in our system, as opposed to the 18% to 20% entitlement to free school meals in non-selective schools. At present, about 5% of pupils in England attend a grammar school, but as many as 19% are affected by academic selection, with about 100,000 pupils a year sitting the 11-plus—or, rather, an 11-plus, given that there are over 100 different 11-plus tests. Different selective areas and different grammar schools in so-called non-selective areas all set their own tests. There is no official body overseeing the 11-plus. Neither the DfE nor anyone else is responsible for quality-assuring this multiplicity of tests.

There can be a long-lasting and damaging effect on children from failing the 11-plus, as reported by teachers and parents. It can dent the confidence of 11 year-olds as they begin their secondary education. If they are not selected, axiomatically they are rejected. This is not the frame of mind in which to begin the next phase of their education. However, as demonstrated by an article in the *Times* last Wednesday, even people who go on to be successful in life may never lose the sense of shame and failure that not passing the 11-plus leaves behind. The headline was:

"Shame of failing 11-plus haunts TV trailblazer."

This Bill seeks that secondary schools have regard to the comprehensive principle by providing for admission to schools to be not based wholly or mainly on selection by academic ability. As Gorard and Siddiqui suggest, this Bill provides the mechanism to phase out the practice of academic selection and its corollary of rejection. The Bill would leave in place arrangements for admission to special schools for children and young people with a relevant special educational need or disability.

This is a social justice and levelling-up Bill. As I have said, 19% of England's secondary school pupils feel the impact of selection, whether they face an 11-plus test or not. This is because the overall effect of concentrating higher-attaining pupils in particular schools depresses the overall GCSE results in the surrounding area. Research demonstrates the advantage of teaching lower, middle and higher-attaining pupils together. Higher-attaining pupils continue to obtain highly, while middle and lower attainment levels are generally raised.

Kent's GCSE results being lower than the national average confirm that selective schools do not improve results across the area. A comprehensive principle is that we all do better when we all do better.

As to the social justice and levelling-up points, selective education produces social segregation. The proportion of pupils in grammar schools from disadvantaged backgrounds, with a special educational need or a disability, or who are looked-after children, is extremely low. It follows, therefore, that surrounding schools take a disproportionate number of pupils with disabilities or special educational needs. The law needs to change to end the unnecessary division of children into schools by means of the outdated and unreliable 11-plus scheme. This Bill offers a phased plan to bring about comprehensive admissions policies to England's remaining state-funded selective schools. This would bring England into line with education systems in Scotland and Wales and ensure a fully comprehensive education system.

In conclusion, while there is currently a grammar school ballot legislation in place, frankly, it is unworkable, and rewriting it is not a good solution to this problem. In evidence to the Education Committee in another place, a conclusion was drawn that the grammar school ballot regulations were designed precisely to retain the status quo. Selection in Guernsey was ended by a parliamentary vote, not a local one. The parliamentary vote was acknowledged and accepted because clear evidence was advanced outlining the reasons and the rationale for the change. The people of the island understood the benefits of phasing out the selection, even when they did not initially agree with it.

I commend this Bill to the House. It is a brief but precise Bill, the effects of which would bring great benefits and enhance the social justice that I am sure that we all seek from our education system. I beg to move.

11.59 am

Baroness Berridge (Con): My Lords, I am grateful to the noble Baroness for giving your Lordships' House the opportunity to consider the issue of academic selection for schools, which was, until Prime Minister's Questions in the other place on Wednesday, probably the most politicised issue in the education system. How do 163 schools in more affluent areas demand such attention, when there are 4,081 schools that are non-selective? Should the local decision-making that has allowed this historical anomaly to exist be taken away by central government to end this situation? I support this Bill as the status quo is unacceptable.

Nothing that I say is to denigrate the hard work of those in these schools. It is not personal, but it is principled and pragmatic. Here, briefly, are three reasons: education is a social experience; there should be parity of parental choice; and there is what I term the micro-geography of education.

While some non-selective schools do not have a broad background of pupils and some families ameliorate the issues I will outline with extracurricular social activities, the profile of our grammar schools, with few exceptions, is narrow. They do not have many children with additional needs, who are on free school meals or who are looked-after. At the census date last year, 68 of our grammar schools had no looked-after children at key stages 3 or 4. That is a product of not giving priority admissions and selecting on the basis of the entrance test only. If I think back to my school and remove all those children, it would have been a poorer education.

Additionally, 13% of children entering grammar schools come from outside the state sector—presumably they are from abroad or the private sector, or have been home-educated—compared with 2% in other state schools. Nowadays, employers do not want qualifications only; they want an appreciation of different talents and life experiences, as well as protected characteristics. Is this really the education we want in the 21st century, and should the taxpayer be funding it? Can the Minister outline whether the taxpayer funds the costs of running these additional examinations?

Secondly, on principle, in England parents should have parity of choice in choosing a good local school, but they are offered other additional choices, such as in the area of faith. Although a larger catchment area is served, parents can choose a faith school—not only Church of England, Catholic or Jewish but, since 2010, Muslim, Hindu or Sikh state-funded schools. It is only right to expand that and give parents of faith parity of choice. If you are going to offer selection, it should be all or nothing.

Parents living in selective areas such as Lincolnshire often want a non-selective system, but for most people, if you want selection, it is not open to you. At the moment, this choice is predominantly not given to parents in deprived areas, which tend to lack grammar schools. Noble Lords might say that that is an argument for bringing them back wholesale; this is where micro-geography is the trump card.

I grew up in a small town in the smallest county—Rutland. Rutland topped the country's league table for the best GCSE results for the first time, but it has only three secondary schools. Much of that was due to Catmose College in Oakham, under the leadership of Stuart Williams and his great team, which has been improving things year on year, doing their teacher-assessed grades with integrity so the reintroduction of exams meant even more improvement. You could make it a grammar school, but there is no other school in the town and a huge proportion of pupils would have to travel from towns large enough to sustain a secondary school. That would be not a parental choice to travel, but no option.

The second aspect of micro-geography is that, although there has been a policy of expanding grammar schools for intermittent periods, it looks innocuous but is not always. A small town might have two schools: the grammar school is expanded, then the comprehensive school might suffer from a lack of numbers; it starts to have fewer pupils through the door, starts to get less money and then starts to fail. Education is often a microeconomy that is very sensitive to what look like subtle changes at the policy level. There are hundreds of children now travelling out of large towns to get education, because the only school now on offer is a grammar school.

I leave it to other noble Lords to add to the detailed evidence on academic attainment that the noble Baroness, Lady Blower, outlined for these schools. I am grateful

[Baroness Berridge]
to the noble Lord, Lord Hunt, for sending me some of that information. However, I noted that this is ESRC research. Who funds that? The taxpayer. Surely, we have better things to spend our research money on than looking into an anomaly created by a historical accident in our education system.

I wish I could remove the politics from this, but I fear that even the rather more heavily populated Benches of His Majesty's Opposition have not been able to grasp this nettle politically and look at the grammar school issue. The greatest irony, in my mind, after the issue raised at Prime Minister's Questions, is that, when assisted places were abolished, some of our private schools set about raising the money to replace them. For instance, Manchester Grammar School offers one-sixth of its places on scholarships and bursaries. You are perhaps more likely to find more socioeconomically and ethnically diverse children, and more looked-after children, in a private school than in some state-funded grammar schools. If we are going to spend our money on research, we should research that.

12.05 pm

Lord Watson of Invergowrie (Lab): My Lords, I congratulate my noble friend Lady Blower for promoting this Bill on a subject whose time has come. At a time of scarce public resources, there is a need to spread them as equitably as possible and that particularly applies to education.

What a pleasure it is to follow the noble Baroness, Lady Berridge: we discussed education issues at the Dispatch Box on many occasions. We rarely agreed, for obvious reasons, but we are in agreement today and I am pleased that she is part of this debate.

Those in favour of grammar schools claim that they help to increase social mobility, but the evidence points in the opposite direction. Today, less than 3% of pupils at grammar schools are eligible for free school meals, compared with 18% in non-selective schools. If grammar schools were really increasing social mobility, all—every one of the 163—would need to demonstrate that more than 18% of their intake were entitled to free school meals. It is clear that they are not increasing social mobility in the areas in which they currently operate.

I have a problem with the term "social mobility", and grammar schools epitomise the reason why. To give a disadvantaged few a hand up in any sphere is always welcome but, as the free school meals figures show, when it comes to school pupils, they are very few. This suggests a level of self-satisfaction, coupled with an acceptance that the remainder of pupils can be left pretty much to carry on as before. That is why I prefer the term "social justice" to social mobility, because we need to consider the school population in its widest sense and ensure that we do all we can to improve learning and outcomes for all pupils, not just the fortunate few.

Let us not sugar-coat the issue: grammar schools are often much better at social selection than at academic selection. Many children who succeed in gaining entry to grammar schools are from two categories: those who have attended private prep schools rather than their local primary school and so are already privileged, or those who have remained within the state system but come from families whose parents can afford to pay for private tutoring to ensure their children pass the 11-plus exam. I think I know the Minister well enough to believe she genuinely wants to see an increase in social mobility, but not enough in her party share that aim. If they did, surely they would invest more in early years education, the stage at which state intervention makes the greatest contribution to a child's life chances.

Advocates of grammar schools rarely state that each one needs around three non-selective schools. What about those? They are filled with children who are told, at the age of 11, that they are failures. There is a cruelty involved in stigmatising children at such an early point in their development, and many never recover. Although I was educated in Scotland, where there are no grammar schools, I sat the 11-plus. I very much remember the divisions that caused and the lost friendships that resulted. There are many who recall siblings and friends being separated, with people branded as failures, snobbery reinforced, class divisions entrenched and, perhaps most importantly, opportunities denied. Who would want or even tolerate those outcomes?

The truth is that grammar schools are damaging not just to individual young people, but to communities, because they are about being exclusive, not inclusive. Some would say that that is their raison d'être; it is more about who they keep out than who they let in. They do not raise general education standards. My noble friend Lady Blower mentioned Kent, which has the highest number of grammar schools in the country, but also the highest number of failing secondary schools, including academies, of any local authority.

We hear much about the postcode lottery of school admissions, and it could be said that there is already a form of selection by house price. Of course, grammar schools defy the postcode lottery. Rather than seeing themselves as part of a community, they cast their net far and wide, resulting in often ridiculous situations, such as children travelling from Brighton to attend grammar schools in the London boroughs of Kingston and Sutton—50 miles away. Southend has four grammar schools, yet only one has a majority of children whose home is in Southend. What is the point of that?

This is public money being spent on public education, yet it is being used to stroke the egos of grammar school head teachers, for whom result are everything and promoting community cohesion—supposedly a legal duty of every state school—appears to count for very little.

There is no shortage of Tory party Members of Parliament in favour of creating more grammar schools, the most vociferous being Sir Graham Brady, the influential chair of the Back-Bench 1922 Committee. That is not a surprise, given that 50% of schools in his constituency are grammars. I wonder whether he would be so ardent if he represented a seat in Surrey, where there are no grammar schools.

The argument is that more grammar schools would create more choice. That would certainly be the case, but it would be the schools being given more choice over pupils rather than parents being given more choice over the school they want for their child. No child should be required to earn a place at their local school.

This issue has been around for as long as I can remember. Everyone in my party is in favour of a fully comprehensive system. Some say that to move towards it would be a distraction to an incoming Labour Government, because of the fuss the media would cause, and so we should not make it a priority. Whether it is a priority or not, I believe it should be a manifesto commitment for the next election. To those in my party who argue otherwise I simply say: if not now, when? I wish my noble friend well with her Bill and look forward to continuing this important debate in Committee.

12.11 pm

Baroness Bennett of Manor Castle (GP): My Lords, I join others in thanking the noble Baroness, Lady Blower, for bringing forward this important Bill and giving us the chance to have this important debate, and for taking steps to implement a long-term, consistent Green Party policy—which I have no doubt will be a priority of the first Green Government, should it still be an issue.

I say that noting line ED112 of the Green Party's policies for a sustainable society, which says:

"Selection by aptitude, ability, or social class runs counterproductive to creating a high quality education system for all students. Excellent all-ability schools with balanced intakes are the best way of ensuring that every child receives a first-rate education".

The policy goes on to say:

"Many of the existing problems in our admissions system stem from the emphasis on SATS and League Tables, both of which the Green Party will abolish".

I quote that second point because there is in the nature of grammar schools a fundamental underlying problem of the way that we currently look at education. It is set up as a competition between pupils trying to get into schools, and between schools trying to get higher on the league tables. If we look at this in a much broader context we see that we face so many issues given the state of our world today. We need to develop the human potential of every person on this planet to the best possible level. That would be to the benefit of all of us. It is not a case of saying, "We're going to get our school system ahead so it's better than somebody else's." We all benefit the better schooling is all around this country, and all around the world.

Many noble Lords already set out some of the stats, figures and evidence, but it is worth picking out three points from three sets of evidence. First, I refer to a Durham University study published in the *British Journal of Sociology of Education* in 2018. Using the kind of measures that the Government themselves like to use—what it describes as "effectiveness"; that is, exam results—the study found that, once the nature of the intake, including chronic poverty, ethnicity, home language, special educational needs and age of the group, had been taken into account, grammar schools are no more or less effective in outcomes than other schools. They do not achieve what they aim to achieve. The study found that their apparent success is due just to the selection of the pupils.

Coming towards a measure of schools that is much more like the one I would like to see, there was a study in the same year by the UCL Institute of Education that analysed data from 883 children in England and 733 children in Northern Ireland who had similar academic achievements at primary school and were from similar backgrounds. It looked at these pupils at the age of 14 and at some of the traditional tests in English, maths, verbal and non-verbal reasoning, and vocabulary. There was no difference in the result; there was no benefit from the grammar school. Crucially, given some of the issues we face and the concerns that I have about schooling, looking at the pupils' mental health, engagement at school, well-being and interaction with peers—the way a school prepares pupils for life—there was also no benefit from a grammar school education.

On the broader impacts, not just on individuals but on communities, a hugely valuable study from the University of Bath looked at areas with grammar schools and areas without. It found that inequality in earnings is significantly higher for people who grow up in areas with grammar schools compared with those who grow up in areas with a comprehensive system. The Government tell us that they are concerned about poverty and inequality. Here is an absolutely crucial statistic: low earners who grow up in a grammar school system area earn less than low earners who grew up in a comprehensive school area.

We all know that, given the timings—we saw my noble friend Lady Jones of Moulsecoomb's Private Member's Bill go through the House and be sent to the other place today—we really have to get our skates on to get this one through the same process. This is a crucial issue. I applaud the contribution from the noble Baroness, Lady Berridge, and echo the point she made that this certainly is not meant as an attack on pupils, teachers or people associated with grammar schools. People make the best of what they have. Indeed, I visit a number of grammar schools with Learn with the Lords and other school visit programmes. Generally speaking, pupils do not choose to be where they are at school, so I will visit any school. I have visited Eton and Harrow, among others, and found that very educational, in its own way. We need to debate these issues and, more than that, act on them. I wish this Bill from the noble Baroness, Lady Blower, good speed.

12.17 pm

Lord Davies of Brixton (Lab): My Lords, it is a great pleasure to support this important and timely Bill. I thank my noble friend Lady Blower greatly for introducing it. It has not actually been much of a debate so far; the speeches have been remarkably one-sided. I very much look forward to the Minister's reply, but that one-sidedness reflects the situation we are in.

This debate is timely. This week saw the launch of an active campaign on the issue, Time's Up for the Test. It is important, in the sense that it raises the profile of this issue. Those involved in education will be conscious that there has come a time when this issue will need to be confronted; it cannot be tucked under the carpet any more. The mission statement of Time's Up for the Test says:

"We want the remnants of the discredited secondary school system which dates back to the 1940s to be swept away. Nowhere in England should young children be divided on the basis of some

[Lord Davies of Brixton]
ill-conceived perception of intelligence. The 11+ should be abolished and every child should have the right to attend a comprehensive school."

I could not put it any better myself, so I am happy to quote what it says. We are talking about comprehensive education. The basis is that all children benefit from a fully comprehensive education; that is education in its wider sense—not just exams but how you learn to live in society.

Earlier in the week, the Prime Minister, in answering a question, referred to parental aspiration. All parents have aspirations for their children; it is only a subset who have the money to support those aspirations. If you really want to aspire then comprehensive education is best for all.

It is important not to underestimate the significance of selective education. There are still 11 local authorities that the Department for Education designates as being highly selective—that is where more than 25% of pupils attend grammar schools. The Department for Education's own figures show that schools in highly selective areas have the lowest attainment, statistically below the national average. There is no evidence that the high-attaining children gain any advantage but clear evidence that those who find it more difficult to attain a high standard of education do worse. It is one-sided.

We have had some figures and I shall cite some more, from the Comprehensive Future website. Noble Lords can look them up and do their own due diligence. I think they are compelling. One that has already been mentioned but should always be referred to concerns free school meals. They are underrepresented in grammar schools, with just 5% of grammar school pupils taking free school meals, while the average in non-selective schools in selective areas is 23%; that is 5% against 23%. Where is the equity in that? The pupil premium is an alternative measure of disadvantage. It is based on eligibility for free school meals at any point in a pupil's school life. Grammar schools' intake is made up of around 8.3% of pupils entitled to the pupil premium compared to a national average of 27.6% for disadvantaged pupils in secondary schools; that is 8% against 27%.

All this goes back to the total failure of the test, as has been mentioned. The test is a test of social selection. It is not a test of innate educational ability. For example, those born in September or October have an inherent advantage over those born in July or August. What justice is there in that? It also benefits those with parents who can afford the all-pervading tutoring that is now available. The figures are compelling. I conclude by emphasising that the superior results, to the extent that there are superior results, in grammar schools reflect the ability of the intake and not the success or otherwise of grammar schools' ability to educate children.

12.23 pm

Lord Storey (LD): My Lords, like the noble Baroness, Lady Bennett, and other noble Lords, I take part in the Learn with the Lords programme, which involves all types of schools, from maintained schools to academies, independent schools and grammar schools, and I meet children and young people who want to learn and are excited about learning. For me, it is about the young people themselves and how we develop them for the best and provide opportunities for all children. I support the School (Reform of Pupil Selection) Bill and thank the noble Baroness, Lady Blower, for bringing it forward. I am pleased that such an important issue is being given the appropriate attention.

Supporters of selective grammar schools often remind us of such schools' superior results. Admittedly, data pointing to such conclusions abound. For instance, the 2017-18 GCSE attainment data between grammar schools and non-selective schools in highly selective areas show that the average attainment per pupil was higher by almost 30 points in selective schools. When this House briefly discussed grammar schools in June, the noble Lord, Lord Knight, used an analogy to address such statistics. He said that if a hospital was allowed to choose patients and admit only those very lightly injured, its mortality rate would be impressively low. The same goes for schools. If a school is allowed to admit only pupils with above average aptitude, of course its results will be better than those of schools offering education to every student regardless of their abilities. In fact, those who use such data to justify the outdated and frankly traumatising system of selection and rejection would do well to remember the first law of scientific research: association is not causation.

Even disregarding the unfair advantage given to selective schools in allowing them to choose who to admit and who to reject, we can find hardly any evidence-based justification for their existence. It is often said that such schools are centres of excellence, being especially well adapted to accommodating and developing the above average abilities of their students. Yet a University of Durham study which looked at chronic poverty, special educational needs, home language and age in year groups found no evidence that grammar schools were more or less effective than any other schools. Once again, it was pupils' overall circumstances rather than the school they went to that decisively influenced their academic performance. It would be good if the Government focused on addressing this recurring pattern of academic underachievement and underprivileged background instead of trying to perpetuate an outdated, unfair and exclusive model of schooling.

12.26 pm

Lord Hunt of Kings Heath (Lab): My Lords, I very much welcome my noble friend's Bill. Like her, I am a patron of Comprehensive Future. The relevance of this debate is, of course, that we are in the lead-up to the next election, and we will be interested in my noble friend's response to this debate. It is a good opportunity, too, for the Minister to state expressly the Government's offer and promise in relation to selective education and grammar schools. Going back, in 2016, Theresa May as Prime Minister said that the Government intended to lift the ban on the creation of new selective schools. That was in the 2017 manifesto. Since then, we know that, had the Schools Bill made progress in your Lordships' House and gone to the Commons, a number of concerned MPs there would have wished to amend it to get rid of the ban on selective education. My noble friend Lord Watson quoted Graham Brady's views

and his article in *House* magazine in July, in which I think it would be fair to say that he evangelised for grammar schools. It is therefore legitimate for us to ask the Minister to say, when she winds up on my noble friend's Bill, what the Government's view on selective education is.

I am old enough, I am afraid, to have been brought up in a selective system of education in Oxford. I lived through the experience of the pressure of taking the 11-plus exam, the private coaching that did take place, even in the 1960s, and the devastating impact on so many children who "failed" the 11-plus exam and went to secondary modern schools. I do not underestimate the hard work of teachers in those schools, but they had much less resource and less ambition, and we consigned so many young people to a future that did not always have a positive outcome.

We need to remember that the move to comprehensive education was hugely popular, because this wretched system that divided children when they took the exam, mostly at 10, was very unpopular with many people. Those who now argue for grammar schools present only the image of children who passed the 11-plus; they never talk about the impact on the others. They simply assume that the comprehensive system, if you like, can just chunter on, without grammar schools having a devastating impact on it.

I do not want to repeat all the statistics that we have heard; they are overwhelming. Grammar schools clearly do not aid social mobility. The big argument that Conservative MPs always trot out is that this will give a leg up to poorer children. It is a very small number of kids. Overwhelmingly, their pupils come from more advantaged social backgrounds. As the social mobility tsar said recently, selective education does not work. You cannot have grammar schools without the 11-plus. You cannot have the 11-plus without paid coaching buying advantage. The whole system is rigged against the poor.

In quoting my noble friend Lord Knight, the noble Lord, Lord Storey, was absolutely right. We know that private health insurance weeds out people who are going to make expensive demands on the system. Imagine hospitals doing the same. The outcomes would be better and, no doubt, people would proclaim that they were the best hospitals because their outcomes were better. This is what we often get in relation to grammar schools. I am afraid that until recently Ofsted often fell into that trap.

From the Minister we are looking for a clear statement that the Government will not support the expansion of the grammar school system. I hope they say that they will not allow any more satellite grammar schools to go ahead, because clearly that is driving a coach and horses through the current prohibition. I hope they also say that selection at 11 has absolutely no purpose or point for our young people.

12.32 pm

Lord Austin of Dudley (Non-Afl): My Lords, I draw the House's attention to my entry in the register of interests and thank the noble Baroness, Lady Blower, for giving us the opportunity to discuss this issue.

The central point I want to make today is that we have to make education, and improving standards in education for all young people, our country's number one priority. In a world in which technology and skills are crucial but in which we are finding it harder and harder to compete, there can be no more important issue. Improving education would enable us to tackle all sorts of issues. It would not just help young people to lead more prosperous and fulfilled lives but strengthen the economy, help us to tackle the deficit, bring new investment and better jobs to towns that have lost traditional industries and reduce the costs of inequality and poverty on the NHS, housing and benefits.

Unfortunately, when it comes to literacy and numeracy, we are lagging behind our competitors. It is not just countries such as China and South Korea; we are struggling even to compete with post-communist nations—Estonia, Poland and Slovenia. For decades, Germany has provided many more apprenticeships and had much better technical education.

Let us look at the challenges in education: so many working-class pupils, particularly white, working-class boys, leaving school without even basic qualifications; decades of not taking technical education seriously enough or providing enough apprenticeships; and a teacher recruitment crisis. Look at yesterday's scandalous figures showing the plummeting number of young people going into teacher training. Look at the catastrophe of Covid for children from poor or overcrowded homes or those with special needs.

Given all that, who would say, as the Minister for School Standards appointed in September did—thankfully, he is no longer in office—that their "biggest fear of all" in education is the abolition of charitable status for private schools? Whatever you think of the idea, who would say it is the biggest problem in education?

Likewise, given the scale and urgency of the task of improving education for all young people, I am not sure that abolishing selection should be the top priority for an incoming Labour Government. I understand the objections set out to selection at 11, of course, but the Explanatory Notes say the Bill would also prevent schools with sixth forms from selecting pupils for A-levels. What about the BRIT School, which does a very good job on performing and creative arts? What would be the impact on other specialist schools?

Whether we like it or not, selection is a major feature of our education system, whether it is a few state schools, private fee-paying schools or parents buying a home near the best state schools. The question is not whether selection takes place but who gets to choose and on what basis.

According to the Sutton Trust, only 7% of pupils attend independent schools but they produce seven out of 10 High Court judges, more than half our leading journalists and doctors and more than a third of our MPs. Five public schools send more pupils to Oxbridge than 2,000 state schools—two-thirds of the entire sector.

Look what happened in Covid: every independent school I know provided a full timetable on Zoom from day one. I do not begrudge them that at all. Spending money on education for young people, either as a

[Lord Austin of Dudley]
parent or as society as a whole, is the best investment possible, but I do not know a single state school—comprehensive, selective or otherwise—where that happened. Children from poor or overcrowded homes were hit worst of all, so the gulf between poor children and the rest—already a scandal, and greater in the UK than anywhere else—gets bigger than ever.

Instead of abolishing selection, we should look to open up elite private schools to all pupils on the basis of ability, which is what the Sutton Trust proposes. That would open access to leading independent schools by selecting pupils for all places purely on merit, with parents paying a sliding scale of fees according to their means. When this was piloted in Liverpool, open access saw academic standards improve and the social mix of schools become more diverse, with 30% of pupils on free school places and 40% paying partial fees. Top independent schools are prepared to take part in trailblazer programmes on this, benefiting thousands of pupils every year whose parents could not afford fees. Extending that to 100 or more leading—

Lord Adonis (Lab): The noble Lord is making his case, but the school in which it was piloted in Liverpool, the Belvedere School, has since joined the state system as a state academy and does not have selective admissions or fees any more. Might there not be a lesson from this that if more of these elite private schools joined the state system, access to them would be much more open than with them charging fees of £15,000, £20,000, £25,000, £30,000, £35,000, £40,000 or £45,000 a year?

Lord Austin of Dudley (Non-Afl): I am afraid that my hearing aid meant I missed the first part of the noble Lord's question, but I got the gist of it. I think the answer is that there is not much chance of that happening, but there is a chance that they are prepared to join the Sutton Trust programme. That would have a dramatic effect on the diversity of these schools and the opportunities open to young people from poorer homes.

Lord Storey (LD): The noble Lord, Lord Adonis, mentioned Belvedere, but there is also the independent selective school Liverpool College, which is now an academy with no selection; and St Edward's College, which was a selective independent school, is now an academy. The results are better than when they were grammar schools.

Lord Austin of Dudley (Non-Afl): That is fantastic to hear, of course. Can I seek some guidance? Do I get a bit longer after the interventions? Does it work like in the Commons, where we get more?

Viscount Younger of Leckie (Con): My Lords, given that there have been a couple of interventions, a minute longer.

Lord Austin of Dudley (Non-Afl): I am very grateful for that. My other point is to ask why the Government cannot increase choice and competition by allowing popular and oversubscribed schools with consistently good results, strong governance and sound finances to provide more places. The problem at the moment is that funding follows the pupils. Oversubscribed schools cannot provide places to accommodate more pupils. Allowing them to provide the facilities first and then pay back the cost of expanding the facilities through the money that the additional pupils generate would deal with that problem.

I am very grateful for the extra time I have been given. I will not read the rest of my speech, but I am grateful to have had the opportunity to contribute to this debate.

12.39 pm

Lord Hendy (Lab): My Lords, I thank the clerks, your Lordships and my noble friend Lord Kennedy of Southwark for allowing me to speak in the gap before him.

I support my noble friend Lady Blower's Bill as a matter of high principle. I also have a personal reason for doing so: I am one of those who failed the 11-plus. Remembering it now, I do not think I realised then what the significance was of failing that exam, but I remember the sadness of knowing that my mates were going to grammar school while others were going to secondary modern. I remember the shame of the failure of that exam, and I remember the sadness that I brought to my mum and dad for having failed it.

As it happens, I was lucky; I went to a first-rate comprehensive, Mellow Lane School in Hayes, where I blossomed in education for two years. Unfortunately that came to an end because my parents moved to another borough in London, which I will not mention, where I went to a second-rate grammar school and my education diminished in stature.

As it turns out, I have not done too badly in life—I have had a very enjoyable career, and here I am among your Lordships—but I do not cite myself as an example. Statistically speaking, I am non-existent. What I am very aware of, and so are noble Lords now from the statistics that others have mentioned today, is that those who fail the 11-plus are most likely condemned to a worse standard of living and a worse enjoyment of life than those who pass.

I only make the point that, if it is proposed to maintain selection, the Minister should remember the pain that is inflicted on those who are rejected when they fail. That is, as my noble friend Lady Blower mentioned, a scar that I personally bear, and will do so till my dying day.

12.41 pm

Lord Cormack (Con): My Lords, I too am glad to speak in the gap. The noble Lord has of course not done too badly, and I am sure that his scar is not quite as acute.

I was delighted when the noble Lord, Lord Austin, made his speech because we had debate for the first time. The basic proposition proposed by the noble Baroness in her Bill—and I congratulate her on bringing it forward—was being challenged, and I think rightly. I must declare an interest: I am the product of a grammar school education. Before I entered Parliament

in 1970, 52 years or more ago, I taught in the independent sector and the state sector. I taught in a docklands secondary modern as well as in an Edward VI grammar school, founded in the 16th century, in a little country village. I have therefore seen education in a variety of forms. I believe that it would do no service to abolish a particular group of schools that contains some of the most remarkable schools in our country. I am much more of the Austin persuasion of opening up and encouraging.

The real problem in education, more than any other single factor, is discipline. You need discipline for learning, but so many of our large comprehensive schools do not have good discipline. One sees the shining examples of those that do, but it really is crucial that we concentrate on that—I would say more than any other single factor. If there is no discipline, children cannot properly learn. They go astray and their parents are let down.

I accept that this has to be a very brief contribution in the gap. I hope my noble friend the Minister will recognise the factor that I have spoken about and will not pledge any future Conservative Government to abolish a particular group of schools but rather will seek to bring them all up and give all children an equal opportunity to learn in a disciplined environment.

12.44 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, maybe I should declare that I went to St Thomas the Apostle, a Catholic boys' school and comprehensive in Peckham. I thought that I got a very good education from that school; prior to that, I went to St Joseph's in Camberwell, so I had two good Southwark schools.

I pay tribute to my noble friend Lady Blower for securing this spot for her Private Member's Bill, which has enabled its Second Reading today. She did far better than I have with my Private Member's Bill. I am way down the list and do not think I will be getting anywhere near this level, but I will keep pressing the Government—you never know. In paying tribute to her, I also commend my noble friend for her work in the field of education over many years. I think we all recognise that and we are pleased to have her here with us, particularly on our Labour Benches.

It is fair to say that all noble Lords who participated in this debate care deeply about education. Ensuring we have the processes, procedures and framework in place so that every child gets the chance they deserve to have a first-rate education is what we all want to achieve. It is also fair to say that schools are struggling with an unprecedented array of issues. They are struggling with the Covid catch-up and all the other issues that we have to cope with, including energy prices, rising food prices and the mental health crisis among children. We talk about and grapple with all those issues every day.

Clearly, there is an uneven playing field in England today. A week ago, DfE data revealed that children on free school meals achieve education outcomes that are 20% lower than those who are not. In Richmond upon Thames, Wokingham or Surrey, 73% of pupils reach a good level of development; but if you grow up in Manchester, Middlesbrough or Luton, it is nearer 50%. Those figures should raise alarm bells for, and are a challenge to, all of us. For me, that is what levelling up is all about.

The noble Baroness, Lady Berridge, gave the whole House some very important points to think about in her excellent speech. As I said, I went to school in Peckham and Camberwell, while the noble Baroness went to school in Rutland. But my housemaster was Michael Wilshaw—who I believe went on to other things. I had a fairly good education at the school I went to. I learned to play the bassoon there and played it in school orchestras. I also learned to love Shakespeare, theatre and stuff. The education I got in my comprehensive school was excellent.

Education to me is all about changing lives for the better, no matter where people live. Sadly, that has failed to be delivered in many cases. If we look at education policy over the last 12 years, for me it is one of failure, and that is most disappointing, and no more so than on levelling up. We hear so much about levelling up from the Government but we see no work at all on levelling up education.

Grammars certainly represent a minority of schools. The evidence does not support that grammar schools improve outcomes for children across the education system. My noble friend Lady Blower highlighted that in some of the figures that she gave to the House, so we support the existing ban on new grammar schools opening. My noble friend Lord Watson of Invergowrie is right that there is a debate about where we as an Opposition should go with our policy and where an incoming Government should be. I am unable, though, to offer support from the Front Bench for the Bill. There are big issues facing the education system around children's recovery, the supply of teachers and ensuring that young people leave education with the skills they need to thrive and work throughout life. That is our priority, and it should be the Government's too.

My noble friend Lord Hunt of Kings Heath set out, in a very good speech, some of the huge challenges that we face in education today. My noble friend Lord Austin of Dudley made the point about literacy and numeracy. He is right on that; what we need to do is to offer an education to young people that actually equips them for the world of work—to get a job, provide for their family and then be an active participant in society. To me, those are the most important things.

The noble Baroness, Lady Berridge, also mentioned private schools. The Opposition certainly have policy on private schools. We intend to end the tax break for private schools and invest the money that raises in driving up standards for children across the piece, by delivering thousands of new teachers, professional career advisers for every school and work experience for pupils.

I conclude my remarks by again congratulating my noble friend on securing a Second Reading. I will look carefully as the Bill proceeds through the House.

12.49 pm

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I echo other noble Lords in offering my congratulations to the noble Baroness, Lady Blower, on securing a

[Baroness Barran]
Second Reading for her Bill and in acknowledging her lifetime of commitment to children and the education system. While I understand the intention of her Bill, I must express our reservations about it.

As we have heard in the debate, it may be a truism, but selection by ability is certainly a controversial area. We know there are strongly held views both for and against selection by ability, as we have seen laid out here, in the other place and in the media. However, I am delighted to agree with the noble Lords, Lord Kennedy and Lord Austin, in saying that the Government's mission is to raise education standards for all. As my right honourable friend the Prime Minister said earlier this week, this Government believe in opportunity. To be absolutely clear, that is our priority: to raise the standards of education for every child. We live in a land where the education landscape is diverse; we do not have a uniform system where all schools share the same characteristics. The Government believe that this is one of the key strengths of our education system.

We have heard surprisingly little mention of parents in this debate. Parents clearly like to have a choice of differing types of schools. Schools of all types—small and large, co-educational and single sex, selective and non-selective, faith and secular; there are examples in every category—are oversubscribed. As your Lordships are aware, grammar schools are also oversubscribed. As a Government, we want to support and facilitate choice for parents. We can either look to make all schools the same or we can embrace the diversity of our school system and strive to ensure that all schools are good and outstanding. Your Lordships are aware of the considerable progress that has been made by this Government in that regard, with 87% of schools now rated as good or outstanding.

Fair banding aside, this Bill would, ultimately, end all forms of selection in secondary schools, in both England and Wales, including for entry to school sixth forms. I am not aware whether that was the noble Baroness's intention, but that is the impact of her Bill. There are 457,000 pupils in secondary sixth forms in England, where selection is commonplace. Selection for sixth-form entry helps ensure that students succeed in the courses that they enrol upon. It helps ensure that young people are choosing the courses that are right for them and where they can thrive, whether they choose to pursue an academic route or more technical route.

As your Lordships have pointed out, selection by ability for children of compulsory school age is less common than in post-16 schools. As we have heard, there are currently 163 grammar schools in England—5% of secondary schools—providing education for 188,000 children. In addition, there are 40 schools that are permitted to select a minority of their pupils by ability or by a form of aptitude selection not otherwise permitted. This right was enshrined within the School Standards and Framework Act 1998. Finally, we have schools that select 10%—and only 10%—of their intake by aptitude in prescribed subjects: the visual or performing arts, modern foreign languages or sport. All these schools are part of the choice and diversity that our education system provides. I note that this Bill would retain pupil banding.

Some 97% of grammar schools are rated as "good" or "outstanding" by Ofsted. They are popular with parents where they are located and regularly oversubscribed, just like good and outstanding comprehensive schools, including faith schools. Those grammar schools offer excellent standards of education and benefit the children who attend them. Several grammar schools share their expertise with other schools as teaching schools and are experts in stretching the most able pupils.

The majority of the 163 grammar schools now prioritise children eligible for free school meals or the pupil premium for admission. Even so, there is lots more for them to do in this space, as your Lordships have highlighted. I urge all good schools, including our existing grammar schools, to do more to increase the numbers of disadvantaged pupils—and, as my noble friend said, looked-after and previously looked-after children—who they admit, so they act as real drivers of social mobility.

The noble Lord, Lord Hunt of Kings Heath, asked for the Government's position on the expansion of grammar schools. As I have said, the department's priority is to concentrate on ensuring that as many children as possible, whatever their ability, have access to an outstanding education, rather than creating more grammar schools.

In reference to the points made by my noble friend Lord Cormack about the importance of good behaviour within schools, that is clearly necessary across all our schools, and I would absolutely agree that it is a foundation on which good curricula and teaching need to be built.

My noble friend Lady Berridge asked whether the taxpayer funds 11-plus exams. I suspect that she knows the answer to her question. Admissions authorities pay out of their schools' budget, so in effect the taxpayer does pay, but I hope that the House would agree with me that it is not the role of central government to micromanage small elements of school budgets. That feels like a path we should not be going down.

In conclusion, I thank all noble Lords for their contributions to this debate. As I said, we want parents to continue to have a diverse choice of good and outstanding schools that deliver opportunities for every child. Selective schools form a small but important part of this diverse provision. While we have no plans to open new grammar schools, neither do we believe that existing and excellent schools that have, historically, been selective for a very long time should be forced to remove their selective admission arrangements and become comprehensive.

I therefore hope that my remarks give noble Lords something to reflect upon, although I am not optimistic that I will change many minds. I look forward to working with your Lordships more broadly to ensure that all children and young people in our country continue to have access to the highest-quality, and diverse, education.

Baroness Bennett of Manor Castle (GP): The Minister made a major part of her contribution the assertion that parents like choice. I am not sure whether she is aware of the article this year in the *Journal of Social Policy* by Aveek Bhattacharya, the chief economist at the Social Market Foundation. In a comparison with

Scotland, where parents generally do not have a choice of schools, he found that parents in England were less happy. They described themselves as "cynical, fatalistic and disempowered" in the situation of having choice in schools. In asserting that parents like choice, is it not simply the case that a few sharp-elbowed parents like choice and lots of other people suffer in that system?

Baroness Barran (Con): I really do not think that it is helpful to be judging parents and accusing them of being sharp-elbowed. I think that every parent wants the best for their children. In relation to the Scottish education system, I point the noble Baroness to the attainment of children in Scottish schools compared with English ones.

12.58 pm

Baroness Blower (Lab): My Lords, writing notes to reply to a debate on the hoof when you are also listening to speeches is tricky, and something that clearly I must develop more fully. I thank all noble Lords who have engaged in this debate. Like my noble friend Lord Watson, I genuinely believe that this is a Bill whose time has come. Many people have long campaigned over the issue of selection, which, as noble Lords will recall from my opening speech, I choose to refer to as "rejection of the many". We have done that because we genuinely believe that the comprehensive principle is the right one. Recent publicity has shown that even many years after the experience of failing the 11-plus people still feel damaged by it. The testimony given by my noble friend Lord Hendy indicates that even people who are supremely successful—as the noble Lord, Lord Hendy, KC obviously is—have that feeling within them that somehow or other there was a point at which they were not quite good enough.

I note that the contributions on the Bill have come from all sides of your Lordships' House. I particularly thank the noble Baroness, Lady Berridge, for expressing the view that her education would have been poorer had it been in a school that had a grammar school profile. That was a significant contribution, and it speaks to how the social integration, rather than social segregation, in comprehensive schools is deeply felt by a lot of people and very important to them. I say to her that I will do a lot more work on micro-geography, which is a really interesting issue.

I entirely agree with my noble friend Lord Watson's preference for the expression "social justice" rather than "social mobility". If noble Lords take anything away from this debate, they might take away his remark that no child should be "required to earn a place" at secondary school. The fact is that children have a right to be educated to secondary level.

Social class, whether it is described as that or as being disadvantaged, less wealthy or other things, has run through this debate. Clearly there is an issue here about the fact that some families have much greater resources than others, which means that they have privileged access in different ways. For me, this is a significant issue.

The noble Baroness, Lady Bennett, mentioned the inequality wrought in society by the very fact of the existence of grammar schools. Quite a lot has been written about the fact that, if you achieve a grammar school place, you are likely, certainly at some stages of your life, to have a more successful career. Frankly, we do not think that this is the proper way for the education system to be organised.

My noble friend Lord Davies referenced the Time's Up for the Test campaign that was launched last evening, in a piece of extraordinarily brilliant coincidental timing, since that meeting was arranged before any of us knew that Second Reading would happen today. I was not present, but I understand that it was very successful and gave an opportunity to discuss these issues outside this Chamber. It demonstrates that, although people are able to assert—because they feel they can—that grammar schools are popular, there is also the much less discussed fact that grammar schools are not popular with a whole range of people. I am pleased about that timing and that he talked about one of the aspects of education being how we learn to live together. We do so with a much narrower group of people if we are in a grammar school than if we are in a comprehensive school.

The noble Lord, Lord Storey, made a great speech; I am glad that he was able to stay in the Chamber long enough to make it. He referred to the hospital analogy, also referred to by my noble friend Lord Hunt—this is an apt and well-made point.

The devastation of many children and families at failing the 11-plus was described by many speakers, particularly my noble friend Lord Hunt. Noble Lords probably underestimate how serious this is.

I am glad that the noble Lord, Lord Austin, brought some perspectives to this that meant that it actually was a debate, and I would be happy to discuss this further with him. I realise that it is absolutely true that there is a lot to do in education. I simply feel that this step can be taken now; it is a good step, and it would improve our education system.

Lord Austin of Dudley (Non-Afl): If the noble Baroness thinks that this should be the priority for an incoming Labour Government above all the other problems the education system is facing, why does she think the last Labour Government—several speakers in this debate, including me, were Ministers in it, and one was the Schools Minister—did nothing about this in 13 years?

Baroness Blower (Lab): Since I was not in the Government, I cannot tell the noble Lord what their thinking was. Sometimes the priorities of parties in government are not the right ones. I believe this would be an important priority for any incoming Labour Government to take on. My—

Viscount Younger of Leckie (Con): I am very sorry to interrupt the noble Baroness, but she will be aware that the convention is that the wind-up lasts about three or four minutes. Even though there has been one intervention, we are already on nearly seven minutes, so I advise her to conclude.

Baroness Blower (Lab): I will conclude by thanking my noble friend Lord Hendy and saying to the noble Lord, Lord Cormack, that I do not think the word "abolish" was mentioned once in the debate. The noble Lord talked about opening up the system; in fact,

[Baroness Blower]
that is what the Bill is about. If he visited more schools, he would find that there is quite a lot of discipline in quite a lot of comprehensive schools. I thank all noble Lords who have participated in this debate.

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

Protection for Whistleblowing Bill [HL]

Second Reading

1.06 pm

Moved by ***Baroness Kramer***

That the Bill be now read a second time.

Relevant document: 19th Report from the Delegated Powers Committee

Baroness Kramer (LD): My Lords, I thank the All-Party Parliamentary Group on Whistleblowing and its past and present chairs, Stephen Kerr and Mary Robinson, for the APPG's role in making sure that this issue is heard in Parliament. Lawyers working with the APPG developed the Bill that I am bringing forward today in a further refined version. I thank the academics who contributed to the Bill, but those lawyers, leading practitioners in this field, and WhistleblowersUK made a critical contribution to drafting a Bill which can work in the real world.

Whistleblowers are the canaries in the mine; they give the earliest alert to wrongdoing of all kinds, especially by powerful entities, both public and private. In a meeting last week with major financial auditors, I was told categorically that 40% of fraud is uncovered through whistleblowing rather than formal management, audit and compliance processes. I cannot think of a scandal exposed in any field, from the NHS to financial services to money laundering, where whistleblowers have not played a vital role. I draw noble Lords' attention to the news today of the scandals at University Hospitals Birmingham and the way in which whistleblowers there were treated.

Good organisations value whistleblowers and act on their information. We rarely hear about those instances because harm is halted in its tracks. Sadly, some organisations turn on whistleblowers overtly or covertly, and with vindictive hostility. Effective regulators and enforcement agencies regard whistleblowers as a citizens' army that greatly extends their reach beyond their formal resources and acts as a deterrent. However, virtually none of them provides any protection except confidentiality, which cannot be guaranteed, because the identity of a whistleblower is often evident due to the nature of the information and because many people's first instinct when they see wrongdoing is to speak out to those in charge. When there is retaliation against the whistleblower, there is no regulator batting on their team.

This country led the way in providing legislation to give some protection to whistleblowers with the Public Interest Disclosure Act 1998, but it is limited and virtually unamendable because it functions only within employment law. It covers only workers speaking out about their employers, not clients, suppliers, contractors and others. PIDA provides redress, but only for a worker facing retaliation and through the employment tribunal, which is a costly process and does not allow for the recovery of legal fees.

Dr Raj Mattu faced a legal bill of £1.48 million to clear his name in the employment tribunal and it took seven years, in which he had no work. On winning, he was awarded only £1.22 million. Lawyers tell me that a whistleblower needs at least £40,000 to get to a tribunal, often a three-year process, and that the case then can linger for years, especially with employer appeals. The awards rarely cover the lifetime career impact and informal blacklisting is never considered.

PIDA provides no mechanism to make sure that a whistleblowing report is investigated or that the whistleblower ever knows what happens. These limitations persuade many people not to speak out. Those who do speak out often become so shell-shocked and frightened that they accept settlements that include confidentiality clauses that effectively silence them—the Americans call them non-disclosure clauses. This is the rationale for replacing PIDA. Of all whistleblowing claims brought before the employment tribunal, only 4% succeed, such is the weakness of the Act in upholding workers' rights.

The various regulators react differently to whistleblowing. Some are very diligent but others, frankly, regard whistleblowers as emotionally troubled people, not a source of vital information. Many do not use skilled investigators to triage the information and therefore tend to overlook it. If anyone doubts that, I recommend Dame Elizabeth Gloster's excellent report on the FCA and the London Capital & Finance scandal. Identifying who is the right prescribed person for a particular disclosure can be a nightmare; for wrongdoing in the education sector, I defy anyone to tell me which cases need to be reported to the school, the local authority, Ofsted or the Department for Education. The NHS has the National Guardian system, but it is basically a signposting operation with no power of action.

The European Union recently issued a detailed directive on whistleblowing protection. Feedback on this indicates that it lacks teeth, but it goes in the right direction. The USA is aggressive in recruiting and rewarding whistleblowers. The Bill does not copycat the US system, but the key lesson I take from the US is that only if you have very powerful enforcement and a very strong whistleblower regime can you afford to risk lighter regulation. We have neither in the UK. The UK has waited far too long to update its whistleblower protection, albeit that we will do it in a British way.

The Bill adopts the strategy of creating an office of the whistleblower to act as a champion for whistleblowing and to set standards and good practice, particularly among the regulators and prescribed persons. The last time I brought forward a Bill for such an office, the Minister argued that it would be swamped by overseeing 35,000 whistleblower-initiated investigations a year. But of course, the design is for a compact office that works through the regulators and with relevant persons setting standards for procedures, not investigating cases itself except where no regulator is available. The office would be paid for by fines that it can levy against those who retaliate against whistleblowers—an arrangement that I will elaborate on in a moment.

In his objections last time, the Minister also argued that regulators are experts who need no overarching body to set standards or monitor them. If he remains of that opinion, he needs to explain to this House why so many scandals in so many sectors arise every year because whistleblowers have either been afraid to come forward or have been ignored. Other speakers today will provide evidence of failures by citing individual cases. I tell the Minister that—obviously off the record—regulators have told me directly that they wish for the office to be created, as whistleblowing is an area in which they require expert support and help.

The Bill defines a "protected disclosure", clarifying what qualifies as the content of such a disclosure, and who is a "relevant person" to whom it can be made. It lets the office of the whistleblower set standards for how the information is treated. The office also has principles and objectives that include encouragement and support for speaking out and the establishment of standards for procedures and reporting. It ensures that disclosures are followed by investigation and action—the most important ask, frankly, of every whistleblower. Importantly, that clause is qualified to exclude disclosures that are "frivolous, malicious or vexatious". Non-disclosure agreements, which I mentioned earlier and are so often used to supress investigations, are banned specifically for whistleblowers.

At the heart of the Bill lies protection for whistleblowers, so that if the office determines that a whistleblower is at risk of retaliation, it can issue an interim relief order. If the office determines that a whistleblower has been subjected to detriment, it can issue a redress order that can include an order to pay compensation. That is a far speedier process than the current employment tribunal and without cost to the whistleblower: in effect, it is a reversal of the power structure as well. Such powers are balanced in the Bill, so that any party disputing an order levied on them can appeal to the First-tier Tribunal.

The Bill in effect reverses the current burden of proof that requires a whistleblower to prove to a tribunal that the detriment they have experienced is a result of whistleblowing. It also removes the inequality of arms, since any entity or employer challenging a redress order is facing the office, not a lonely whistleblower with few resources. Today, other speakers will vividly illustrate the issues with real-life cases. I have with me some 17 letters, primarily from whistleblowers, including some from Ireland, which is going through a revised version of the PIDA, which many people think could be an answer—the letters make it evident that it is not. We need a change to normalise and eliminate stigma from whistleblowing, which we know will not only expose wrongdoing but, perhaps even more importantly, deter it in the first place. The Bill creates the framework for that culture change, protecting those who do the right thing. I beg to move.

1.17 pm

Baroness Altmann (Con): My Lords, I congratulate the noble Baroness, Lady Kramer, on introducing the Bill and I sincerely hope it might be third time lucky after her two previous attempts. Her Bill is an important contribution to public protection in many areas. It has an absolutely noble and correct objective, which is increasingly important as fraud, scams and malpractice, particularly in the financial arena, have expanded enormously. We are well behind other countries, which seem to value whistleblowers far more highly than we do. We need to champion their actions as protection from the inside against wrongdoing that may not be apparent until it is too late.

The Bill seeks, rightly, to rebalance the current system and redress the asymmetry of power and cost more in favour of the whistleblower. The burden of proof should indeed be more on the accused and it should absolutely be important to ensure that reported wrongdoing is taken seriously and in a way that protects those reporting it. The Bill's establishment of the office of the whistleblower is very welcome. My experience during my City career showed me the damage suffered by those trying to report wrongdoing. It can definitely be a career-ending move.

Indeed, a good friend suffered stigma and ostracism after reporting financial irregularities. She had seen colleagues basically telling clients things that were not true or trying to sell them positions that they themselves had already decided to get out of and trying to front-run the price. My friend, however, was willing to come forward only because she had already decided that she was going to retire. She knew, and had seen it with others, that were she to come forward at that stage, she would not have worked in the City again. She certainly believed that. Compensation for losing a current job is therefore not really sufficient for the younger whistleblowers. If they can never work in their sector again, there will not be sufficient support for them to have the courage to come forward.

The PIDA 1998 was well intentioned, but it is clearly inadequate. It merely encourages rather than mandates whistleblower protection and the procedures required. So, its main impact is retrospective rather than supportive and pre-emptive, and the costs of employment tribunals are, as the noble Baroness, Lady Kramer, said, prohibitive. The present regulatory system in financial services does not work well enough to prevent wrongdoing. It does not, and perhaps cannot, pick up internal wrongdoing, and it has so often displayed expertise in bolting stable doors after the horses have long galloped away and trampled on unsuspecting members of the public who cross their path. That is why I believe the Bill is right to seek to impose a proactive duty on employers to take whistleblowing reports seriously and prevent the victimisation of whistleblowers.

I support the aims of this Bill, which mirrors that of my honourable friend Mary Robinson MP, chair of the whistleblowing APPG. I accept that there is criticism. There are concerns, for example, about abolishing the PIDA through Clause 26 before we have this new office well-established, but these can be dealt with in Committee. Part 1's remit is extremely wide, and perhaps one could limit some of the catch-alls—for example, prescribed "other matters" as the Secretary of State might decide by regulations, or the "misuse" of authority. I think the itemised list is excellent. If noble Lords have problems with one or two, they could be merged. Part 4 on civil penalties is really welcome. Indeed, I might go further—why limit the maximum amount to £18 million? For a very large multinational, this could be perceived as just the cost of doing business.

[Baroness Altmann]

Overall, I hope my noble friend the Minister will take the aims of the Bill seriously. I know that the Government have promised to come forward with a review of the existing system, but we do not have a timetable, nor indeed the remit of that review, so I would welcome any reassurance that they are willing to take this issue seriously now.

1.22 pm

Lord Browne of Ladyton (Lab): My Lords, it is a privilege to follow the noble Baroness, Lady Altmann, and I commend her comprehensive and detailed speech. She gave a lot of examples and good reasons for supporting the Bill in the name of the noble Baroness, Lady Kramer. I congratulate her on achieving a Second Reading, and I commend her and the all-party parliamentary group for their tireless work and persisting with this objective. Maybe the noble Baroness will be lucky enough on this occasion to persuade the Government that this path forward is the appropriate one.

My intention in contributing to the debate is not to share a lot of anecdotes from my experiences as both a parliamentarian and a lawyer in whistleblowing cases. On reflection, given that I have been a "relevant person" for a significant part of my life, I am surprised at how little there is on whistleblowing. My concern about the current state of affairs is the irrelevance and ineffectiveness of the processes and the available legislative structure.

Late yesterday evening, I was trying to work out in my head what order I would put the various facts I had collected in anticipation of speaking today. About half past 10, I decided that I had had enough of that, and I put the papers aside and switched on the television. I heard Kirsty Wark say: "A 'Newsnight' investigation reveals a culture of fear in one of England's biggest hospital trusts, where doctors tell us their warnings about patient safety are met with disciplinary action". I thought to myself, "Well, if I watch this programme, I may get some insight into how this current system works", but I was disappointed.

The item, the product of a two-month investigation involving a considerable number of BBC journalists, it would appear, took up about 15 minutes of the programme and included parts of interviews with former and current leading clinicians and the local Member of Parliament. The story, I note, led this morning's BBC News. I have no intention of engaging your Lordships with the detail of the reported investigation or indeed the deeply worrying claim that in the last 10 years the trust has referred 26 of its doctors to the GMC, but in not one of these cases has the GMC taken any further action. I raise it today because of what we can infer about the effectiveness of the current legislative protection, the Public Interest Disclosure Act 1998, in providing adequate, never mind comprehensive, protection to whistleblowers and the public.

In last night's programme, the word "whistleblower" was used only once and that was in the presentation's peroration. It is more present in today's reporting, but in neither the written reporting today or the BBC's reporting night was any reference made to the current legislative protection, the Act or indeed any regulator whose attention was brought to this matter and who caused it to be investigated. In fact, it seems that, as a case study it is compelling evidence of not just the ineffectiveness but the irrelevance of the current law.

On ineffectiveness and irrelevance, when previous iterations of this Bill were brought before your Lordships' House, the argument was that establishing the office of the whistleblower, as this Bill proposes, would duplicate the work of existing regulators. I understand the importance of clear lines of accountability that are not blurred by a regulatory body with overlapping functions or remits, but I would like to know what the regulators actually do. Surely, the onus is on those who make this argument to produce the data showing that we will be disturbing a system that already works. I cannot find that data anywhere. Probably the only question I will put to the Minister is: does he have the data on the number of cases that pass through the regulatory system, and the impact of that? If that data shows what I suspect it does—from anecdotal evidence only—then this process is ripe for complete restructuring. It does not work at anything like the scale it ought to because of the level of wrongdoing going on in all of the spaces where it should work.

In the few seconds I have left, I want to share one experience with your Lordships. As a former Secretary of State for Defence, I am often approached by people who want me somehow to impact the MoD. I mostly have to tell them that I am unable to do that, but I do still have some contacts there. I want to raise the issue of whistleblowers who have signed the Official Secrets Act. I have heard of cases, which for obvious reasons I will not say very much about, of people in just that position who have repeatedly been warned against taking their concerns outside their employment due to their obligations under that Act. The examples of abuses and corrupt and unethical behaviour reportedly include ones that would be considered serious in other environments, including cases of serious sexual violence. These are entirely inappropriate things to do, but people are being intimidated regularly and warned against taking such cases forward, just because of what they have signed in the past. This should not stop them doing it, but it is being deployed to do so.

1.29 pm

Baroness Featherstone (LD): My Lords, it is a great pleasure to follow the noble Lord, Lord Browne of Ladyton, who made some excellent points. I congratulate my noble friend Lady Kramer on this vital Bill.

I was leader of the opposition on Haringey Council when Victoria Climbié was murdered in 2000. "Lessons must be learned" was the oft-repeated answer to all the questions, but no one in authority listened or learned. So it happened again. Again in Haringey, just seven years later in 2007, baby P—Peter Connelly, a 17 month-old toddler—was murdered by his mother's partner, his mother and one other. By that time, I had become the MP for Hornsey and Wood Green, the western half of Haringey. Again, there had been warnings from whistleblowers.

The particular case I am citing is the story of Kim Holt, one such whistleblower, a doctor in the special clinic run by Great Ormond Street Hospital as

outreach at St Ann's in Haringey, and the clinic to which baby Peter was taken. Why was Great Ormond Street running a child safety clinic in Haringey? It needed to demonstrate outreach work to gain foundation status. Kim eventually came to me as the only person who would listen to her and do something. Kim and I flagged up the dangers caused by the lack of appropriate staffing at the clinic before Peter was murdered. Between us, we saw the police, Haringey Council leadership, Haringey Council social services, the local PCT, the Great Ormond Street board and CEO, the chief nurse of the NHS, and others, but none of them heard what we were telling them—neither me nor Kim. It was too big to fail; protect the institution; reputations were at stake. I do not have long enough to tell the whole tale or include all those who tried to flag up the dangers ahead.

When baby Peter was killed and the furore arose, the media focus was on Haringey Council and Sharon Shoesmith as the head of social services. But it was also this clinic that failed baby Peter and therefore Great Ormond Street, because it was its clinic, its responsibility, and it had been warned. With a long history of hospital admissions and many, many injuries, Peter made his final visit to this clinic—his last hope. The doctor there did not perform a full examination of Peter because he was "miserable and cranky." Furthermore, no reports had been provided of his previous admissions and attendances at the Whittington or North Middlesex hospitals for possible non-accidental injuries, nor were they even sought. Had they been, the doctor would have seen the history of the myriad signs of abuse that were taking place. According to the post-mortem, Peter would have been suffering from numerous fractured ribs and possibly a broken spine at the time of that last visit. The broken spine would have left him paralysed and unable to empty his bladder.

Post Peter's death, the clinic was judged "clinically unsafe" in the Sibert and Hodes report—the report commissioned by Great Ormond Street. "Clinically unsafe" was the actual terminology used by investigators post Peter's death and independently verified by the Royal College of Paediatrics and Child Health investigators. The report found that, while originally four paediatricians were employed, two had resigned and a third, Kim Holt, was put on sick leave due to the overload, thus leaving only one single doctor in charge to staff the clinic, Dr Sabah Al-Zayyat. She was not properly qualified, was tired and overworked, and the report found that she should never have been employed in the first place. She paid a price for her part in this disaster.

The report also found that there was no named doctor for child protection. The named doctor position is the absolute critical requirement for this service. That crucial information was deliberately withheld. Instead of submitting the full report as an addendum to Great Ormond Street and Haringey PCT's individual management review, Dr Collins, the then CEO of Great Ormond Street, passed over only a partial and selective version, omitting all the key points of danger. The information that had been expunged would have flagged up the dangerous conditions operating within the child health safety team for which Great Ormond Street had the responsibility. This report was kept secret and was released only in response to a freedom of information request from the BBC to Tim Donovan, with whom I worked to expose this horrific cover-up for a period of two years.

Dr Holt had escalated her concerns to the chair and CEO of Great Ormond Street in November 2006; she had been to the GMC. I took it to the board of Great Ormond Street, who basically told me to get lost—as I said, it was too big to fail. How dare I question this great establishment? Shoot the messenger—silence the whistleblower.

Kim was ostracised by the senior management team. Her workload had been unsustainable and she had been signed off work with work-related stress in February 2007. Great Ormond Street then moved to remove her from her post, with an offer of a year's salary and the expectation that she would sign a non-disclosure agreement. Great Ormond Street would not allow her to return to work. The offers of money increased to £120,000, and that was signed off by the Treasury. Kim declined, as she felt that the concerns she raised were important and relevant for the inquiries that had, sadly, begun to happen. She eventually returned to work four years after her initial period of sick leave. Great Ormond Street has since apologised to her for the distress caused. It is too big to fail, as in so many cases. These are the reasons why my noble friend's Bill is vital.

1.35 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I thank the noble Baroness, Lady Kramer, for bringing this Bill and for her tenacity in continuing to bring it, because after reading up on this issue, including the excellent Library briefing, I am shocked that we do not have something like this in law already. I do not understand why there is such a gap in human rights and in plain justice. I very much hope that the Minister will listen hard to what we are saying and will say that it is a fantastic Bill and he will pick it up immediately.

I was on the Metropolitan Police Authority for 12 years, and in that time I was put on to the domestic extremist database by the police. I am never sure which commissioner actually did it. I have challenged all of them, and they all blamed somebody else. I was on it for something like 10 years, and it was only by chance that somebody said, "Are you on the database?" So I asked, and I found out that I was. I got a copy of the list of things that they had recorded about me. Quite honestly, it was not as good as if they had just asked for my diary, which I would have been more than happy to give to them.

However, I had first-hand experience as a whistleblower because when I asked to see the full files that the Met Police held on me as a domestic extremist, I was told by senior officers, including the deputy commissioner, that they had been destroyed. Sometime later, I thought I might just check again, and I asked. At that point, a Met Police sergeant told a journalist that he had just seen my files destroyed. This was some months after I had been assured by senior officers that they had been destroyed. After that time, I of course followed it through, and the Met covered up as much as it could, but the sergeant had a very tough time within the Met from that moment on and suffered for his honesty.

[Baroness Jones of Moulsecoomb]

The noble Baroness, Lady Kramer, mentioned that whistleblowers are often overlooked as emotionally troubled, but quite honestly, after going through the sort of trauma that they experience when they tell the truth about some quite nefarious goings on, they will be emotionally troubled because they are treated so badly.

As we have heard, all the Public Interest Disclosure Act 1998 does is provide some sort of compensation if an employer victimises or sacks a whistleblower, and that is always within very limited parameters. It is an after-the-event protection that does nothing to resolve the underlying issue, whether that is exposing a legal, health and safety or environmental issue or cover-up. There should be a statutory requirement for an employer or public body to investigate the whistleblowing allegation with penalties if it does not, in a similar way to safeguarding children and vulnerable adults. This Bill is sensible and needed, and the Government should support it. I very much want this Bill to go through, but I am slightly conflicted because it would not go through if the Government collapse, and I think on balance I would rather have the Government collapse than the Bill, but that is nothing against the Bill. That is totally against this Government.

1.38 pm

Lord Shinkwin (Con): My Lords, I begin, like other noble Lords, by offering my heartfelt thanks to the noble Baroness, Lady Kramer, for what the noble Lord, Lord Browne of Ladyton, rightly described as her persistence in championing this vital issue and to Mary Robinson MP in another place for her efforts. I say "heartfelt" because this cross-party Bill is personal. I was a whistleblower without the protection that this Bill would provide. It was one of the most frightening experiences of my life—and I have certainly had a few because of my disability.

I will never forget the sense of isolation and self-doubt that threatened to overwhelm me—until I googled "whistleblowing" and came across the wonderful Cathy James, the then chief executive of the UK's premier whistleblowing charity, now called Protect, and her equally helpful colleague, Francesca West. Within minutes of calling their helpline, I was assured that the situation I was describing did merit my concerns.

As recorded in *Hansard*, I shared my deeply unpleasant experience with noble Lords in our debate on civil society and lobbying on 8 September 2016, so I do not intend to rehearse the details today. However, I will reiterate that I would never have believed that the behaviours I witnessed in the charity sector were possible had I not seen and experienced them myself. Bullying pressure was applied by a senior director to try to force me to approve a payment from charitable funds, which I made clear in writing would be unethical. The wholesale and expensive restructuring of the organisation I was working at resulted in a swathe of thoroughly decent former officers from different wings of the Armed Forces effectively being removed from their roles as charity managers because they had had the temerity to stand up to the civvies who had the whip hand on the charity's executive board. This was done so cynically and systematically, with these former senior officers required to reapply for their jobs after years of excellent appraisals, only to be told that they had failed a psychometric test. All this happened without any real accountability. It was a clear abuse of power.

The individuals concerned—Chris Simpkins, Sue Freeth, Sharron Lewis-James and Jane Charlton—have all since moved on, and the wonderful charity to which I refer, and for whose vital work I will always have the greatest respect, the Royal British Legion, is thankfully now under new management. Yet for some, the scars left by those individuals' actions and behaviours will never heal.

I was the lucky one. Thanks to Cathy James, who put me in touch with an outstanding solicitor, Clive Howard, then at Slater and Gordon, I had a degree of protection from those individuals which meant that I could, reluctantly, leave the job I loved on my terms. The same did not apply to the county managers I have mentioned, whose sense of honour, I suspect, played a part in their not pursuing the same course that I was forced to take. Another factor was that they probably felt they had nowhere to go, and the individuals that I have already mentioned will have known that too.

This Bill is crucial because it would have provided a shield for myself and the county managers and, no less importantly, as the noble Baroness, Lady Kramer, has already said, a deterrent against such actions and behaviours being seen as acceptable in the first place. So I particularly welcome the provisions in Clause 1 and the expansion of the range of relevant matters to include mismanagement of public funds—to which I would add the mismanagement of charitable funds—and the misuse and abuse of authority, as proposed. I also welcome the proposed establishment of the office of the whistleblower and its objectives, including the promotion of good governance. Clause 6, and the preservation of the confidentiality and anonymity of whistleblowers, is paramount. I could not risk going to the Charity Commission, because neither would have been guaranteed in my case.

In conclusion, this Bill is sensible, it is necessary, and it enjoys cross-party support. Subject to further scrutiny in Committee, it deserves the support of your Lordships' House as well.

1.45 pm

Lord Berkeley (Lab): My Lords, I also fully support this Bill and I congratulate the noble Baroness, Lady Kramer, on her persistence in bringing forward her third attempt. I also pay tribute to all the people who supported her and the all-party group.

I will start by repeating the words of Mary Robinson MP, who said that

"if you name an industry, I can name … a scandal brought to light by whistleblowers".—[*Official Report*, Commons, 26/4/22; col. 598.]

That is a pretty wide generalisation. She went on to say that ignoring whistleblowers costs lives. Whistleblowers are proven over and again to be the first line of defence against crime, corruption and cover-up. They do not do it for fun, pretty obviously; they do it because they want to protect other people from the impact of wrongdoing. This is the Bill that they want, because it puts whistleblower issues front and centre and protects those who speak up from retaliation.

I will give a few examples. I expect that many noble Lords will have read the *Reading the Signals* report about the east Kent NHS trust last year and the hundreds of avoidable deaths and injuries to mothers and babies. It is a traumatic case and report, but it has also cost the NHS about £8 billion in compensation—let alone the damage done to the people concerned.

I have other examples. I was first approached by a whistleblower on HS2—somebody called Doug Thornton. I have spoken about him before. He is a chartered surveyor, a fellow of the Royal Institution of Chartered Surveyors and a former top civil servant. He was recruited by HS2 to be its land and property director, to value and purchase all the land needed. He identified large holes in the accounts, and delays, and he believed that HS2 was misleading Parliament as to the real cost of the project. After alerting the board and chairman, he found it necessary to resign. I do not blame him, but of course he lost his job and his career.

Many whistleblowers approached Michael Byng, a quantity surveyor who I have been working with closely, alleging fraud on the HS2 project in some pretty wide areas. As noble Lords will know, Michael Byng believes that the cost of the project should be £158 billion, compared with the Government's costs of £102 billion, but what is important is that whistleblowers inside HS2 have contacted Mr Byng to offer their agreement and support for his appraisal costs, which they believe are being deliberately withheld from Parliament by HS2 Ltd and the Department for Transport for fear that knowledge of the true cost would lead to curtailment and cancellation.

I can go back through HS2 phase 1—London Euston is not sorted, nor is the station on the Great Western main line, and there are serious ground settlement conditions up the line—but that really is not the point. The point is that railways now use a method of measurement that I will call RMM1. HS2 denies that it uses it, but all the people within HS2 say that it is used.

Of course, this has resulted in HS2 coming up with two parallel sets of accounts. This is like having two columns for your cost accounts: one we keep for ourselves and one we share with Parliament. According to the whistleblowers, they are very different accounts. There are many reasons for this, but the general reality is that they are trying to delay news of future costs so that the news does not get out until it is too late to do anything.

These whistleblowers are directing their allegations to Mark Thurston, the chief executive of HS2 Ltd; Michael Bradley, the former chief financial officer of HS2; Rob Doran, the former project controls director of phase 1; and Tim Smart, the current managing director of phase 2. However, Mark Thurston and the Permanent Secretary are accounting officers, and accounting officers are supposed to account to Parliament that the money they say they need is sufficient and that it is sufficient to finish the job. I do not know how they can do that, because, at the moment, there is a 50% difference.

I hope that the large number of whistleblowers in HS2 will eventually receive some reward for what they have told Michael Byng and that they will tell other people quite soon. However, it is extraordinary that none of these allegations have been independently investigated. I hope that this Bill will be a safety net for all whistleblowers. There is a similar situation with Crossrail, which I will not go into because I do not have time. The whistleblowers really need to avoid the fear of retaliation; this will undoubtedly save the company and the country money. I hope the Government will give this Bill every encouragement.

1.51 pm

Lord Sharkey (LD): My Lords, I congratulate my noble friend on securing this debate and welcome her Bill. I declare an interest as a vice-chair of the APPG for Whistleblowing.

The Bill addresses important defects in our current whistleblowing system, without being overly prescriptive. These defects are a cause of real damage and distress to individuals and harm to the public interest. They are also a barrier to proper oversight, control and remedial action in both our public and private sectors. Both these sectors contain extremely large, complex and well-funded organisations. This presents not only a striking inequality of arms when it comes to whistleblowing but a real difficulty for outsiders, including regulatory bodies, in spotting wrongdoing within these organisations, either at all or in a timely manner. Whistleblowing by insiders is a vital counter to malfeasance in these large and complex organisations. Unfortunately, however, the protections and incentives needed to make whistleblowing a realistic prospect are largely missing from our UK regime.

Things are very different in the US, as my noble friend Lady Kramer noted, where many states have their own whistleblower regimes, as do some of the main federal agencies. One of the biggest whistleblower programmes belongs to the SEC. The IRS Whistleblower Office's annual report to Congress for the fiscal year 2022 makes the point:

> "Enforcement actions brought using information from meritorious whistleblowers have resulted in orders for more than $6.3 billion in total monetary sanctions, including more than $4.0 billion in disgorgement of ill-gotten gains and interest, of which more than $1.5 billion has been, or is scheduled to be, returned to harmed investors."

The importance of whistleblowers in the financial services industry was explicitly mentioned by the SEC chair, Gary Gensler, who said:

> "The assistance that whistleblowers provide is crucial to the SEC's ability to enforce the rules of the road for our capital markets."

We could not say the same in London, where the protections and awards for whistleblowers are trivial and ineffective by comparison. It is not uncommon, for example, for agreed settlements to be almost entirely eaten up by the whistleblower's obligation to pay their own costs. The average tribunal award is around £28,000, less than the average UK annual wage and often less than the cost of bringing the action.

The United States typically operates with light regulation and very strict enforcement and penalties, using information from whistleblowers. It is an irony that the UK is about to embark on a lightening of regulations but with no corresponding increase in either incentives or protections for whistleblowers. The Bill

[LORD SHARKEY]
provides the mechanism for putting that right in the office of the whistleblower. It does not, of course, contain a proposal for a reward mechanism, but it would allow the office of the whistleblower to create an appropriate regime if Parliament so directed.

So far, I have discussed whistleblowing in the context of the financial services industry, but I will now briefly illustrate examples from the manufacturing industry and public services. A whistleblower was a senior engineer in one of the largest sectors of what remains of our manufacturing industry, working for a major company and dealing with SME supply chains. They had been raising concerns since 2018 about a number of potentially catastrophic defects in safety mechanisms across a range of products produced by the supply chain. The whistleblower's requests to escalate within the manufacturer the damning simulation test results evidencing catastrophic failure were turned down by senior management. The whistleblower was repeatedly warned not to open that can of worms. On investigation, it was found that the whistleblower's concerns were valid, and remedial action for the supply chain was requested by the manufacturer. The supply chain SME reacted by threatening the whistleblower with violence and other abuse. Eventually, the manufacturer confirmed that, in dealing with the whistleblower, it had failed to uphold the standards set out in its own staff handbook, acknowledged detriment and proposed his exit from the business with a settlement agreement containing some confidentiality terms. The settlement was not financially generous, but it helped to settle the legal costs incurred. But the whistleblower was out of a job and had been through an extended and brutal period of uncertainty and unpleasantness, with effects on mental health. All of this happened due to the whistleblower reporting defects that, uncorrected, could well have cost lives. Neither the manufacturer nor the supply chain SME suffered any penalty or sanction.

As we have heard, there are also grounds for concern in the public sector. The NHS has had a well-documented series of problems. The noble Lord, Lord Browne, mentioned this, and it was made clear by the "Today" programme's lead story this morning, which was on the maltreatment of whistleblowers by the University Hospitals Birmingham trust. One reason given by healthcare professionals for not blowing the whistle is fear of retaliation. The recent Ockenden report on the decades-long maternity scandal in Shrewsbury and Telford suggests that, even where the concerns are extremely serious, staff do not speak up for that very reason. As Sir Robert Francis concluded in his mid-Staffordshire public inquiry report nine years ago:

> "A greater priority is instinctively given by managers to issues surrounding the behaviour of the complainant, rather than the implications for patient safety raised".

This focus on the whistleblower and identifying him or her is clear from the recent witch hunt in the West Suffolk NHS Foundation Trust. Consultants were actually asked to provide fingerprints and handwriting specimens in an attempt to identify a whistleblower, which is all too reminiscent of Jes Staley's outrageous attempt to identify a whistleblower when he was CEO of Barclays. That cost him at least $1 million in penalties, but such penalties are regrettably very rare in the UK. I believe that attempts to identify whistleblowers should be firmly on the list that the office of the whistleblower takes forward.

The office of the whistleblower, as proposed in the Bill, will put an end to these practices and will drive a cultural change that will not only prevent retaliation but incentivise these large organisations to act with integrity. I hope that the Minister will find himself in some sympathy with this timely and important Bill.

1.58 pm

Lord Bassam of Brighton (Lab): My Lords, all speakers have congratulated the noble Baroness, Lady Kramer, on her persistence, and I join in that. This is her third time of asking, but she has pursued this case at other parliamentary moments as well, and we can all applaud it. I start from the premise that whistleblowers fulfil and perform an important public service. As we have heard in the debate thus far, barely a day goes by without there being news of a scandal that would never have come to light had it not been for the public service provided by a whistleblower.

As we have heard, the key purpose of the Bill is to increase the protections for whistleblowers in the UK. This follows concerns raised by parliamentarians and whistleblowing support organisations about the general effectiveness of the current Public Interest Disclosure Act 1998 in providing adequate and comprehensive protection to whistleblowers and the public. The Bill would introduce several protections for whistleblowers, including the establishment of an independent office of the whistleblower. The Bill also creates offences relating to the treatment of whistleblowers and handling of whistleblowing cases. It would repeal the UK's current whistleblowing legislation. The case for that has been made by a number of Peers during the debate. My noble friend Lord Browne of Ladyton said that the current framework does not work, and he is absolutely right.

The Bill has more to it than its predecessor. In particular, it focuses on creating a criminal offence of subjecting a whistleblower to detriment, and it brings forward civil penalties that could be imposed on a person for failing to comply with obligations placed on them by the office of the whistleblower. Those measures reflect the concern at the treatment of whistleblowers.

Several whistleblower-support organisations have welcomed the Bill, particularly the creation of the office of the whistleblower. Not all have agreed that the Public Interest Disclosure Act 1998 should be repealed, and some have argued that the legislation should be reformed instead. That is a genuine and real debate. The Government have in the past committed to undertake a review of the UK's whistleblowing legislation, and in October said that the scope and timing of the review would be set out in due course. My question to the Minister is: when will that be?

The establishment of the independent office of the whistleblower was first raised by the noble Baroness, Lady Kramer, in 2017 in Committee on the then Criminal Finances Bill. At that time, she introduced an amendment that aimed to protect and provide compensation for whistleblowers. She said that establishing

an office would help to enshrine the importance of whistleblowing in the public domain. I think that we are all agreed that whistleblowers need more protection, but we are not necessarily all agreed about the form that it should take.

In April 2021, the Government said that they remained committed to reviewing whistleblowing legislation and that the review would be carried out

"once sufficient time had passed for there to be the necessary evidence available to assess the impact of the most recent reforms".

We have had plenty of time to consider these things—why have the Government not brought anything forward between April 2021 and now? The case for a review is long overdue, and I hope that we will hear from the Minister this afternoon exactly where they are at. In July, the Government said that the scope and timing of the review would be confirmed in due course. Several months have gone past since that observation was made. Most recently, on 26 October, in their response to the House of Commons Foreign Affairs Committee's report on illicit finance and the war in Ukraine, the Government reaffirmed its commitment to reviewing the whistleblowing framework. They said that the scope and timing of this review were still under consideration. Why so many promises and so little action?

When people come forward, they do not do so for money or fame; it is often in spite of the impact on their career or family. They do so because, as other noble Lords have said, they believe that they are doing the right thing and that the public have a right to know. There are many examples where whistleblowing could have made a real difference and saved lives: Grenfell, Carillion and Boeing 737 MAX, just to name a few. This afternoon, we have been reminded of some of the terrible cases involving NHS trusts and charities. Yesterday we had a debate in your Lordships' House, in which my noble friend Lord Browne and I took part, focusing on the Metropolitan Police. If ever there was an institution in which protecting whistleblowers was important, that would be one very high up on our list.

We know that the current legislation is not adequate or fit for purpose. It is over 20 years old. While it was workable at the time, it does not ensure that whistleblowers now get the protection and support that they need. Its use essentially comes down to employment tribunals, where individuals must face their employer, with relevant individuals such as trustees, trainees and volunteers being excluded from the law and regulators being unaccountable for the way that they treat whistleblowers, who do not even get legal aid and must personally pay their legal fees. Ultimately there are no official standards for whistleblowing, and employers must meet all recognised procedures for them to follow. That can have a serious impact on how quickly whistleblower reports are accessed.

Sadly, it seems to me and, I think, to others in this debate, that the Government do not take this as a priority. As many others have said, the most recently introduced change was back in 2017: a new legislative requirement for most prescribed persons to produce an annual report on whistleblowing disclosures made to them by workers and employees—a useful move but perhaps only a small one that has really not taken us much further forward.

In terms of the Bill, the idea of an office of the whistleblower is certainly one that we value, and we on the Labour Benches would welcome the opportunity to have further debates on that issue. It would be helpful to hear the following from the Minister: what concerns does he have about a dedicated office that have prevented the Government from bringing it forward? How can the protection and support that such an office might offer be effective without the creation of something like an office of the whistleblower? If the Minister's and the Government's concerns are financial, what estimate do they make of the cost that is so much of a barrier?

The Labour Party has suggested giving protected status to whistleblowers and imposing a statutory duty on employers to prevent victimisation, something that many noble Lords in this debate have made reference to. Does the Minister support such proposals so that we can prevent discrimination against victims?

Whistleblowers play an important role in protecting the public and consumers. They save lives, money and reputations, and they could do much more with protection. They could ensure that businesses and services operated more effectively and improve efficiency, as well as preventing serious incidents and accidents from occurring. We need to ensure that they receive the right and proper support. To do that, we believe that action is needed. I look forward to hearing what the Minister proposes by way of his response. The Bill goes a long way in the right direction. It is worthy of further consideration and of your Lordships' support.

2.07 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, I join the rest of the House in congratulating the noble Baroness, Lady Kramer, on securing Second Reading of her Private Member's Bill. As a former co-chairman of the All-Party Parliamentary Group on Whistleblowing, she has continuously highlighted the important role that whistleblowing plays, shining a light on wrongdoing and advocating reform in this area.

I thank all other noble Lords who have contributed to this excellent debate, many of whom spoke passionately about the experiences of whistleblowers. Like the rest of the House, I was appalled and saddened to hear about the bullying and unethical treatment of my noble friend Lord Shinkwin, and I was sorry to hear about the experiences of the noble Baroness, Lady Jones. It is of course ridiculous that the Metropolitan Police was wasting resources on keeping a file on her; I assume it must have arisen from her membership of the jam-makers' liberation army and other such extremist organisations. Frankly, it is infuriating when you hear reports, as you often do, of the police not having the resources to investigate thefts, burglaries and other matters when they were wasting resources on such things. I hope their practices have been reformed since then.

I was concerned, as I am sure the rest of the House was, to hear about the issues raised regarding University Hospitals Birmingham. I confirm that the Department of Health and Social Care has approached NHS England for a full update in relation to that matter.

[Lord Callanan]

The noble Baroness, Lady Kramer, asked why so many scandals still occur. It is important to remember that the whistleblowing framework provides workers with a route to raise such concerns to their employer or prescribed person.

The noble Lord, Lord Browne, asked what evidence there is that action is being taken on whistleblowing disclosure to regulators. The Government are aware of the importance of transparency in how the framework for prescribed persons—they are usually regulators—for whistleblowers works and how they deal with whistleblowing disclosures. That is why, in 2017, we introduced a requirement for most prescribed persons to report on the whistleblowing disclosures that they receive. Those reports show that over 50,000 whistleblowing disclosures were made to prescribed persons in the 2021 financial year and the range of actions that regulators can take in relation to whistleblowers.

My noble friend Lady Altmann and the noble Lord, Lord Bassam, asked for reassurance that the Government take whistleblowing seriously and what our plans are for the review of the whistleblowing framework. There is no doubt that the Government value the important work that many of these whistleblowers do when they speak up. From our point of view, recent action to strengthen the whistleblowing framework includes guidance for prescribed persons, and for whistleblowers and employers.

As I mentioned, we introduced a new requirement in 2017 for most prescribed persons to produce an annual report on whistleblowing disclosures. We also made a recent update to the prescribed persons order—the bodies and individuals that are prescribed for whistleblowing. These changes will come into force later this month. As mentioned, we are also intending to carry out a review of the existing framework and will share further information on this in due course.

I turn now to the contents of the Bill, which would repeal the Public Interest Disclosure Act 1998 and introduce a new legal framework for whistleblowers. The Government's concerns with this Bill are twofold. First, it is premature to make legislative change ahead of the planned review. Secondly, there are some difficulties with the approach to whistleblowing policy in this Bill. I will briefly set out some of the key concerns about this approach.

Part 2 of the Bill contains provisions on the office of the whistleblower. As well as providing advice and guidance, the office would have significant powers to set and enforce standards. I understand that the intent of this provision is to provide consistency in standards for regulatory investigations that have been triggered by whistleblowing information. Our concern is in relation to how the office would interact with the role of regulators.

Under the existing framework, there are currently over 80 prescribed persons for whistleblowing, many of whom are regulators. In our view, an overarching body would not have the expertise to advise each sector on how disclosure should be investigated and what further action may be required. To impose an overarching standard could also jeopardise the ability of regulators to develop whistleblowing frameworks that are responsive to the specific challenges in their particular sector. Should the new body have these functions, it would require significant staffing resources, with diverse expertise across a range of sectors, to enable it to carry out these functions effectively.

The Bill introduces new criminal offences relating to whistleblowing. This means that it would become a criminal offence to subject a whistleblower to any detriment. It would also be an offence if a person who had received an information notice from the office provided false information or prevented the office investigating relevant materials.

I note the concerns from my noble friend Lady Altmann on employment tribunals, but this would be a big step away from what the current framework aims to achieve, which is openness and transparency in how disclosures are handled. I would not want the Government to take a step away from the employment tribunal system without considering all the evidence that would be gathered through the planned review.

I thank the noble Baroness, Lady Kramer, for bringing the Bill to the House and for enabling this important debate. But, as it stands, the Government are not convinced that the Bill is the right solution to the matters that have been raised.

2.14 pm

Baroness Kramer (LD): My Lords, I will follow the usual convention of not giving a wind-up speech at the end of a Private Member's Bill, but I acknowledge that so many of your Lordships spoke so eloquently. There were brilliant speeches about very individual situations that bring to light exactly the culture and reality for whistleblowers today. I point the noble Lord, Lord Callanan, to that. These are not exceptions but, if you like, exceptions that prove the rule. Although he can cite many instances in which known whistleblowers are recognised and acknowledged by regulators, so many scandals continue to occur—week after week, month after month, sector by sector—that it is clear that the current system is completely inadequate.

We have dealt with the problem he noticed in the Bill by seeking to fund the office of the whistleblower through its share of the penalty system. This is a self-funded body. He will recognise that, in the United States, which has a much more expansive system, that works exceedingly well. There are plenty of ways to extrapolate from that opportunity and to make sure that there is no call on the public purse to have this office of the whistleblower in place.

If the Minister feels that the regulators are troubled by the idea of an overarching body, I suggest that he talks to them. I think he will discover that they find this area so difficult to manage that they welcome the idea of having in place an office and someone with the expertise to help make sure that their standards are appropriate.

On the issue that the noble Lord, Lord Browne, raised about the Official Secrets Act and making sure an investigation happens, this is about not exposure to the press but having in place within any organisation the methodologies, procedures and standards to make sure that, when a whistleblower raises an issue, it is properly and appropriately investigated.

I finish with this, because to me this is the absolute key and the reason I beg the Minister to either pick up this Bill or proceed with his review urgently. I echo the noble Lord, Lord Bassam, and so many others who spoke. Every day that we do not have proper protection for whistleblowers, someone is making the decision not to speak out against abuse of people in a care home, misogyny in the police force, or the scam perpetrated by their financial services institution. Carry this across so many entities and the damage to the public welfare and the public interest is recognised as substantial.

As ordinary citizens we pay a price for the absence of an effective, powerful scheme to provide proper protection for whistleblowers to ensure that people speak out at the earliest possible opportunity and that action can be taken to protect us in the many ways that I am sure the Minister believes ought to be available to us. Please will he act with urgency? I was so upset to hear him again use the words "in due course", which are recognised in this House as the long-grass statement. I hoped we might get a "shortly". Will he please urge his colleagues to act soon, before more people suffer because detriment is not exposed in the very early days when it could be?

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

Front-loaded Child Benefit Bill [HL]

Committee

2.19 pm

Clause 1: Child Benefit (Rates) Regulations 2006 amendment

Amendment 1

Moved by ***Baroness Berridge***

1: Clause 1, page 1, line 5, leave out "on a sliding scale"

Member's explanatory statement

This amendment removes any detail that could signal how arrangements for varying the rates should be made.

Baroness Berridge (Con): My Lords, with the leave of the House, I will speak to Amendments 1 and 3 in the name of my noble friend Lord Farmer, who is unavoidably detained today. I thank the noble Baroness, Lady Sherlock, for helpful discussions and advance notice of the specific questions that her amendments seek to address. I hope that we can make the most of our Committee on this Bill. I am also grateful for the letter from the Exchequer Secretary to the Treasury outlining various concerns around this proposal.

Amendment 1 seeks to address the legislative difficulties that the Treasury has highlighted, as it would simply leave out the words "on a sliding scale", which introduced unworkable complexity into the Bill and would potentially require HMRC to make very regular changes to the child benefit rates available to claimants. As the Treasury said, this would be challenging to operationalise and potentially expensive for taxpayers. This amendment would also hopefully answer some of the concerns raised by the noble Baroness, Lady Sherlock, around adding complexity for parents into the child benefit system.

With Amendment 1, the Front-loaded Child Benefit Bill would be deliberately simple and merely provide the legislative lever or framework around which the Government can then build detailed policy. They would of course be aided in this respect by the many respected think tanks that have published reports providing solutions to the cost of living crisis that we know is facing many families, going beyond giving money and aiming to help improve choice and encourage responsibility.

My noble friend Lord Farmer explained at Second Reading that the rationale is to increase choice for parents in how they manage childcare in the early years. We have all benefited from the research and information about the importance of those early years and the foundations that are laid at that time. During those first two or three years, many parents would like to care for their children themselves but face a considerable and increasingly insurmountable sacrifice of income to do so. Receiving the same flat rate of child benefit throughout childhood no longer fits with the financial realities of many families.

Interestingly, since the Second Reading debate in October, other think tanks such as Civitas have proposed a family support benefit, which would roll out £16 billion of government child benefit and childcare expenditure into a front-loaded payment. In August, the Policy Exchange think tank made a similar recommendation for what it termed a "baby boost" allowance for parents of children aged two and under, which would double child benefit and be funded by reallocating the significant underspend on tax-free childcare. It is that kind of thinking that this Bill is part of in terms of renewing the financial framework for families in the early years. Those costed proposals are important, because one criticism of the Bill was the upfront additional burden on His Majesty's Treasury from a higher rate in the early years, even if the measure was ultimately cost-neutral, as there could be a correspondingly lower rate in later childhood. This reform of child benefit would be part of a much-needed redesign of financial support.

I heard at Second Reading what other noble Lords said around the expense of teenagers. No one is pretending that that is not also an expensive time, but parents are usually much less restricted in terms of the hours that they can work when their children are at school and childcare is much easier. That is also reflected in the fact that the Government give disadvantaged two year-olds, three year-olds and four year-olds all the hours that they do, usually free. Additionally, the age at which the benefit might taper off would be an age at which certain children find that they want to add to the family household income themselves.

There are advantages to this front-loaded child benefit being part of what we see as a greater overhaul of the system of financial support. However, that aspect of any new passage would need primary legislation, which is why this Bill has been brought forward. With the removal of the sliding scale, it is hopefully a very simple framework into which any Government could fit any detailed policy proposals.

Amendment 3 would insert a new clause to enable the Secretary of State to set different rates at which parents could choose to be paid in the early years and later in childhood. Importantly, that amendment would

[Baroness Berridge]
put all the policy implementation detail into the hands of Ministers to craft, so that it can be more easily changed as circumstances change than if it was in primary legislation. This would enable the front-loaded child benefit to be part of a suite of reforms benefiting parents in the early years. The second amendment makes that important change: it would no longer be up to parents to request a particular proportion, but the Government would set within the framework, for example, what proportion could be drawn down and within what age range of the children, et cetera.

As originally drafted, the Bill would have allowed the child benefit claimant to request the front-loaded payments without details of what the new rates would be and how they could be discounted in a child's later life. That was not my noble friend's intention, so that change in who has control would come through Amendment 3, and the delegated powers would be with the Government to develop the front-loaded system.

Briefly, I believe there is one point that the noble Baroness has raised which is not covered by the amendments. It is her query about why the Bill includes "without prejudice" in Clause 1(1B). The only reason that bit is there is as kitchen-sink legislation, just to make sure. Obviously, the provision referred to means that child benefit can never be lowered. We wanted to make it crystal clear now that even if you ended up with a group of parents claiming flat rate for the entirety of a child's life, and then a group doing front-loaded plus decrease, none of those rates could be lowered. We are just kitchen-sinking it to make sure it does not provide any wiggle room for a future Government to say, "We're raising child benefit, but those discounted years and the old years do not get the same percentage increase." That is why the provision is there; it is without prejudice to that, so it would mean there could be no change to that fundamental principle—basically, that child benefit never goes down.

I hope that has clarified those questions for the noble Baroness and I beg to move.

Baroness Sherlock (Lab): My Lords, I thank the noble Baroness, Lady Berridge, for standing in for the noble Lord, Lord Farmer, and introducing the amendments in his name. I shall speak to Amendments 2, 4 and 5 in my name. Having suggested to the usual channels that we have a single group, I will cover everything in one speech, so it may be slightly longer than normal. These are all probing amendments, which I have tabled simply to allow us to explore how the proposal to front-load child benefit would work. I would like to look at three sets of issues.

First off, there is the value of child benefit paid up front. At Second Reading, the noble Lord, Lord Farmer, argued—and the noble Baroness, Lady Berridge, agreed—that the aim of the Bill is to direct more money to parents in the early years to allow them to make different choices. For that to work, it would need to be enough to make a difference but that is going to be quite hard. Child Poverty Action Group research shows that last year the additional basic cost of a child from birth to age 18 was over £76,000 for a couple family, of which child benefit covers about 22%. If you add in housing and childcare costs, the figure rises to over £160,000. The figure for single-parent families is higher still, so how much extra could they get?

Amendment 3 would leave the framing of options to the Government, as we have heard, so my first question is therefore for the Minister. Could the child benefit computer cope with the level of complexity this would introduce? It is a long time since I was a Treasury spad, but my memories of it are such that it made me wonder: when Ministers decided to withdraw child benefit from higher-rate taxpayers, was there perhaps a reason they used the tax system, rather than deciding to means-test it in the more conventional way?

I ask the noble Baroness, Lady Berridge: would the Bill as amended allow Ministers to choose any combination of sums? Could a choice be to have 95% of lifetime child benefit in year 1 and the other 5% over the rest of a child's childhood, or vice versa? More likely, I imagine, is the Policy Exchange model, to which the noble Lord, Lord Farmer, referred at Second Reading. That proposed that half the total entitlement to child benefit should be available during the first three years of a child's life, and the other half spread over the remaining years of entitlement.

The Bill provides, and the noble Baroness has confirmed, that the intent is that the amount payable over a child's life would be the same, whichever path was chosen. My Amendment 2 says that it should be the same in real terms, which is there to allow me to ask the noble Baroness, Lady Berridge: is it the intention that front-loaded child benefit would be paid at nominal value—in other words, at today's child benefit rates—or would some account be taken of the impact of inflation and change in purchasing power over the years?

Because I am sad, I did some back-of-the-envelope calculations, using the example of a family with two children who took the Policy Exchange model at the start of this financial year. I confess that I made the children twins to make the sums easier. If the money is paid out at nominal value—that is, today's child benefit rates—I estimate that the total amount paid over 16 years would be £30,160.

2.30 pm

If what they got each year depended on the prevailing benefit rates and those went up by CPI inflation—one hopes they would—then they would get rather more in cash terms. Using inflation predictions from the OBR, which predict that inflation will spike, turn negative and then settle at 2%, the family would get an extra £5,772 in cash. If we follow Bank of England predictions and then move to 2% when they run out, it would be more than an extra £6,500. Finally, if inflation settled at 5% after next year, it would be an extra £11,000. In other words, the amount the family could get ranges from £30,000, if taken in today's money, to over £40,000 if inflated. My sums may be completely out but, either way, it is quite a margin.

The noble Baroness, Lady Berridge, may say that purchasing power surely stays the same if child benefit rises by inflation. We can debate that—it depends on when it is paid and inflation rates—but even if it did, although the usual practice is to increase child benefit by CPI, there is no statutory requirement to increase it at all. As she will know, this Government froze it

between 2010 and 2013, increased it by only 1% in 2014 and 2015 and then froze it again for the next four years. If that happened again, the value of the child benefit paid to someone taking the money up front would be much higher than for someone who had been paid under the traditional system.

Also, for any parent or carer who thinks they may at some point be a higher-rate taxpayer—fiscal drag is creating rather more of those—there would be a great incentive to get as much child benefit as possible, as early as possible, while they are still eligible. At the other end of the scale is the question of the benefit cap, which affects child benefit. Does that mean some parents would be worse off if they took the money now than if it were spread over the years? Can the noble Baroness, Lady Berridge, tell us how a scheme such as this would prevent a child getting more or less in real terms over their childhood than they would have got had it not been front-loaded? If the Bill's supporters are happy for there to be a difference, how will parents be able to understand the choices they make?

Amendment 4 in my name is a probing amendment to explore whether and how conditions can be imposed on those who choose to take front-loaded child benefit. In 2007, the Social Justice Policy Group suggested that higher initial payments should be subject to satisfactory visits from health visitors or other professionals. The Policy Exchange plan said there was a case for making the payments conditional on the child not being raised in a "potentially harmful environment", such as one where the parent was abusing drugs or alcohol or did not make sure that the child attended school regularly.

At Second Reading, the noble Lord, Lord Farmer, said that he would leave this to the Government, who

"might want to make higher rates of child benefit in the early years conditional on, for example, attending parenting education and/or objective indicators such as school attendance of previous children or professionally recorded signs of neglect."—[*Official Report*, 8/7/2022; col. 1203.]

Does the Minister believe that current legislation would permit the use of parenting behaviour as a criterion for getting child benefit at all or choosing to get it front-loaded? If not, would this have to be done in secondary legislation? If so, can she and the noble Baroness, Lady Berridge, say from where the delegated powers to do this would come? Would it be this Bill, the Social Security Contributions and Benefits Act 1992 or some other legislation?

Finally, my Amendment 5 explores what would happen if a child's care arrangements changed. At Second Reading, the noble Lord, Lord Farmer, said:

"During the first years of infancy, many parents prefer care to be carried out by themselves or, if available, by grandparents or other extended family members".—[*Official Report*, 8/7/2022; col. 1201.]

Let us suppose that a four year-old was living with a parent who died or simply could not manage to raise them anymore, so the child was taken in by a grandparent or another extended family member. If that parent had chosen to take half the child benefit up front, is the plan that the kinship carer would then have to raise the child with only half of the lifetime child benefit, to last the next 12 years? It is not just kinship care; it would apply in many fostering cases, adoption cases or where parental responsibility is transferred from one parent to another. Can the noble Baroness say what would happen if an entitlement to child benefit were to cease because a child died or was taken into local authority care? Would a family have to repay child benefit?

Finally, I thank the noble Baroness for her clarification of the meaning of Clause 1; specifically, the phrase "without prejudice". My curiosity was sparked by trying to work out what the effect would be of not inserting paragraph (1B) into Clause 145 of the Act. Can she help? I could not really work that out.

I have asked a lot of questions about what is a skeleton Bill, but at Second Reading the noble Lord, Lord Farmer, said:

"For this to become law, a government Minister will need to steer it through the Commons, with additional clauses concerning secondary legislation and statutory guidance where policy detail would lie."—[*Official Report*, 8/7/22; col. 1203.]

However, these new amendments make it clear that, in fact, it is the Secretary of State who can determine all the details and impose them by regulation. Although the regulations will be affirmative, this House cannot amend them and would not reject them, save in exceptional circumstances, so this is our only opportunity to find answers to these questions where we can usefully interrogate them on the Floor of the Chamber. Given that, I look forward to the replies from the Minister and the noble Baroness, Lady Berridge.

The Parliamentary Secretary, HM Treasury (Baroness Penn) (Con): My Lords, I start by thanking my noble friend Lord Farmer, and my noble friend Lady Berridge, for bringing these amendments in Committee on his behalf. I acknowledge the dedication they have both shown to this issue. As my noble friend knows, the Government wholeheartedly share her ambition to support parents in caring for their children. Recently, the Chief Secretary to the Treasury has confirmed that, subject to parliamentary approval, child benefit payments will increase in line with the September rate of inflation in 2023.

Like my noble friend, the Government are committed to supporting parents, regardless of whether they choose to leave the workforce in order to carry out childcare duties or remain in the workforce. Details of the UK's generous parental pay and leave policies were set out at Second Reading. Moreover, it has recently been confirmed that, subject to parliamentary approval, statutory maternity pay, maternity allowance, paternity pay and shared parental pay will all also be uprated in line with September's inflation in April 2023. For parents who wish to return to the workforce, the Government offer a range of support with childcare costs. I will not go into the details of these policies, which were described at Second Reading. However, the Government do consider these to be appropriate and robust measures to support families with childcare costs. These initiatives also ensure that families on the lowest incomes receive additional support.

To answer the noble Baroness, Lady Sherlock, I do not know exactly why the Government put the child benefit tax charge through the tax system, but I can tell her that the child benefit system is not designed to front-load child benefit payments in the way the

[Baroness Penn]
Bill intends. It would involve a complex change to the IT system, which would include significant costs for both the IT system and upskilling staff—and we all know the risks around significant IT upgrades and the delays that can occur.

On the noble Baroness's other questions, current legislation gives His Majesty's Treasury the power to prescribe different rates of child benefit for different cases. For example, to date that power has been exercised to prescribe different rates, according to whether payments are being made in respect of the first child or subsequent children. Full legal analysis would be needed to determine whether current legislation allows for different rates to be prescribed for different patterns of parenting, but it would not be possible under the current system to prescribe different rates or make child benefit conditional on different parenting behaviours, as the noble Baroness set out. I hope that answers her questions.

Returning to the amendments tabled by my noble friend Lord Farmer, as I say, the Government set out our full position at Second Reading on why we cannot support the Bill as a whole. In addition to the previously raised issues, I will add a few further points worth considering in relation to these proposals. First, the current child benefit system already takes into account the higher costs that families face when they first have children, hence the higher rate paid for the eldest or only child.

Secondly, as the noble Baroness, Lady Sherlock, outlined, a parent's circumstances may change over time, affecting their eligibility for child benefit payments. This may occur for many reasons. For example, a child may leave full-time non-advanced education, or a parent may lose custody of a child. A parent's income may also increase, such that they become liable for the high-income child benefit charge. If they have chosen to front-load their child benefit payments but become ineligible or opt out in later years, that could affect the fiscal neutrality of this measure. Furthermore, different individuals may claim child benefit in respect of the same child but for different periods of time. The proposals in the Bill would mean that new claimants could be affected or bound by the decisions of the previous claimant. This could be particularly problematic in cases where separated parents are already in conflict over who should claim child benefit.

Thirdly, as the noble Baroness, Lady Sherlock, also noted, the Government currently review the rates of child benefit annually in light of inflation, helping families with rising costs. However, the lack of certainty around how child benefit rates will change in future means that it is not possible to ascertain what an appropriate rate for front-loaded payments would be.

I apologise; I said I was turning to the amendments, but those are our objections to the Bill in principle. I now come to the amendments themselves. I acknowledge that the amendments tabled by my noble friend Lord Farmer would make the Bill more workable for the Government. Amendment 1 would mean that the Bill no longer constrains the Government in setting up a system that specifically front-loads payments on a so-called sliding scale. Instead, as set out in Amendment 3, the Government would be given more flexibility to design such a system, which does not necessarily have to be on a sliding scale. Therefore, the Government have no objections to the amendments. The Bill would potentially need further tidying up to become fully workable, but we recognise that the amendments are a step in the right direction.

Nevertheless, although the Government remain committed to supporting families and children, it is for the reasons previously outlined at Second Reading, and the further points raised today, that the Government cannot support the Bill. I welcome the passion and commitment of both my noble friends in this area, and I am sure that they will continue to press the Government on these important issues. The Government will continue to listen to what they, and all noble Lords, have to say on family policy in the future.

Baroness Berridge (Con): My Lords, I am grateful for the contributions made, and I hope to briefly answer the points raised. I accept that the calculations are very detailed, even if they on the back of an envelope, and this is precisely why the Bill is in the framework that it is. The modelling and viewing of real-terms changes and nominal rates can be done by the Treasury—we are in this strange triangular relationship here as it is a Private Member's Bill—so that the Government can do the policy work in advance and work out how we would cope with the change in inflation and purchasing power, and what would happen during those years. I cannot give the noble Baroness detailed answers, but this is precisely why the Bill is in the framework that it is.

The Government should commend themselves rather more on infrastructure. They have set up systems recently that have worked very well—including for vaccines and the EU settlement scheme—so it is possible to create that infrastructure, though I am mindful obviously of the cost. As to what we could give parents, budgets are so tight at the moment that families may want to choose front-loading.

On conditionality, it is not envisaged by the Bill that we would have any kind of sanction. I recognise that think tanks have suggested that, but, again, that is for the Government to work out in the policy detail on people who want to front-load. The noble Baroness has raised queries before about people understanding what they are doing, so there may be some requirement to make sure that they understand what the implications of taking the child benefit, or a proportion of it, in a front-loaded way are.

On legislation, whether it is an additional clause here or it is done under previous primary legislation, I would rely on the Delegated Powers Committee to say which is the best piece of legislation to use to enact these changes.

In many areas of a child's life, those the child is living with and who have parental responsibility are making all kinds of decisions that affect the outcomes for that child. If they then move, the other parent or foster carer might say that they would not have made that decision. The reality here is that, as in other areas of life, decisions will be made that will affect the child in future.

Repaying money is not what is envisaged, but the noble Baroness, Lady Sherlock, inadvertently raises precisely the first case in which a parent might want to front-load benefits, which is where they sadly have a young child or baby who has a limited life expectancy. Why would you not want to enable that family to front-load their child benefit, bearing in mind the prognosis they have been given? I know that they are often entitled to other benefits and support, but they might also want to do that. That would be a laudable way of using the Bill.

I accept that it is a skeleton Bill. I accept the criticisms and comments made about our statutory instrument procedure, which allows debate but not the opportunity to vote down. However, this is a principle Bill, which would then enable the Government to construct the detailed policy. I thank all noble Lords for their contributions.

Amendment 1 agreed.

Amendment 2 not moved.

Clause 1, as amended, agreed.

Amendment 3

Moved by ***Baroness Berridge***

3: After Clause 1, insert the following new Clause—

"Regulations

(1) The Secretary of State may by regulations prescribe the rates from which people to whom child benefit is payable may choose to be paid, in accordance with section 1, and the arrangements for such choices being made and implemented.

(2) Regulations under subsection (1) are to be made by statutory instrument.

(3) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament."

Member's explanatory statement

This new clause delegates powers to government to develop a front-loaded payment system.

Amendment 4 (to Amendment 3) not moved.

Amendment 5 (to Amendment 3) not moved.

Amendment 3 agreed.

Clause 2 agreed.

House resumed.

Bill reported with amendments.

Counsellors of State Bill [HL]

Returned from the Commons

The Bill was returned from the Commons agreed to.

House adjourned at 2.48 pm.