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PARLIAMENTARY DEBATES
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OFFICIAL REPORT

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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

Thursday 13 July 2023

11 am

Prayers—read by the Lord Bishop of Chichester.

Teacher Vacancies

Question

11.07 am

Asked by ***Baroness Twycross***

To ask His Majesty's Government what assessment they have made of the level of teacher vacancies, and what action they are taking to ensure adequate numbers of teachers in schools in England for the next academic year.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, there are 468,400 full-time equivalent teachers in state-funded schools in England, which is an all-time high. The latest school workforce census showed that in November last year there were 2,300 teacher vacancies. We have invested £181 million in recruitment this year, including training bursaries and scholarships worth up to £29,000 and a premium of up to £3,000 per annum after tax for early-career teachers in levelling-up areas. We are reforming teacher training and CPD and addressing workload and well-being.

Baroness Twycross (Lab): My Lords, more teachers left our schools last year than started initial teacher training, and nearly one in five teachers who qualified in 2020 have since quit. Students in our schools are simply not getting the quality specialist teaching that they deserve. Given that one head teacher in Essex has likened advertising for a maths, science, computer science or DT teacher to "advertising for a unicorn", will the Minister adopt Labour's policy of giving all teachers in the early stages of their career an additional payment to help solve this crisis?

Baroness Barran (Con): First, I do not recognise the numbers that the noble Baroness cites. In 2022-23 there were 47,954 entrants to the profession and 43,997 left the profession. I am definitely not a maths teacher, but that does not look to me like more people left than started. On a payment for every early-career teacher, the Government believe that it is a much better use of taxpayers' money to target that funding to teachers in those areas and for those subjects where it is hardest to recruit. I would be interested to know how the noble Baroness would feel if she were a physics teacher being offered up to £3,000 a year for five years tax-free as opposed to £2,400 for two years, which I think is the noble Baroness's commitment.

Lord Storey (LD): My Lords, 40,000 teachers left the teaching profession last year—the highest since we started recording the number. There are 2,300 empty posts and 3,300 posts are filled by supply teachers. We have heard that 23% of specialist maths teachers and 42% of physics teachers are required. How do parents feel about this situation when their children are, in some cases, being taught not by a specialist teacher but by a supply teacher—a person not qualified in that subject area? Is this not a crisis, and should we not be doing something about it?

Baroness Barran (Con): I talk to a lot of schools and trusts, and I absolutely accept that there are particular areas and subjects where recruitment feels really hard at the moment. But I do not accept that this is the highest figure of leavers ever—I have the numbers in front of me. The trend over the past 10 years is pretty stable. It is only fair to look at the facts and to use the facts. I think that most parents feel that teachers go above and beyond to give their children a great education. The work that we have done to improve the curriculum over the past 10 years is a really important part of that.

Baroness Wolf of Dulwich (CB): My Lords, teacher shortages in specialist subjects and short-lived responses have been common for decades. Shortages are also currently chronic in many other countries, notably France, Switzerland and Australia. Can the Minister inform us whether the Department for Education is conducting an in-depth review of the long list of previous short-lived policy responses or examining how other countries are responding to comparable shortages?

Baroness Barran (Con): I am not aware that we are compiling a list of short-lived responses. We are committed to introducing improvements to the system that are based on evidence, such as the payments to early-career teachers in specialist subjects and the improvements that we have made to the early-career framework, which we introduced in 2021, providing mentors for every single early-career teacher. We are committed to building on those policies, including in relation to continuing professional development being a core part of every teacher's experience in future.

Baroness Sater (Con): My Lords, given the Government's ambition that all school pupils in England study some form of maths until the age of 18, what plans do they have to recruit more maths teachers to fulfil this ambitious target?

Baroness Barran (Con): This is an incredibly important target. As the House knows, we are an outlier in the G7 in not offering maths up to 18 for all students. In everything we do in this area we work closely with schools and colleges to make sure that we understand what works on the ground. The first step will be to launch a new, fully funded national professional qualification for those leading maths in primary schools, teaching them how to train teaching participants and other colleagues how to embed mastery through their school. We expect that to be available to all primary schools from February next year and, as I mentioned, we are offering significant bursaries, scholarships and premiums to early-career teachers in maths in particular parts of the country.

The Lord Bishop of Chichester: My Lords, is the Minister willing to undertake to work with Ofsted to make inspection programmes and grading of schools

[The Lord Bishop of Chichester]
a more positive experience for teachers? If teachers themselves are not flourishing, it is hard to see how they can encourage, inspire and develop our young people to flourish. The Church of England has developed its own centre for education development to help teachers develop their skills and knowledge in a range of areas—every area in the curriculum—and I commend its work to the Minister's department.

Baroness Barran (Con): The department works closely with Ofsted and I think the right reverend Prelate will be aware of some of the recent changes that Ofsted made, particularly to the safeguarding grading.

Lord Hunt of Kings Heath (Lab): My Lords, I welcome the measures the Minister has talked about, but does she agree that one of the issues around teachers' retention is the stress and pressure they are put under? I refer her to work for the Times Education Commission on SATs. Is she prepared to look at the impact of SATs on the well-being of teachers and students? The evidence from the Times Education Commission is that most parents wish we did not have SATs and that they put huge pressure on children, particularly in year 6, to very little benefit. Is she prepared to at least look at this again?

Baroness Barran (Con): We work closely with teachers, teaching unions, and schools and colleges all the time to look at workload pressures and well-being. There is a lot of work going on in this area, including looking at more flexible working options and a well-being charter for schools. On SATs, I do not accept the noble Lord's premise. It is essential, now more than ever post pandemic, that we understand children's level of attainment as they leave primary school and go into secondary. I hear too many stories about children going into secondary without a sufficient reading age to be able to engage with the curriculum, and obviously that leads to major attendance problems. I ask the noble Lord to reflect on the premise of his question.

The Earl of Clancarty (CB): My Lords, arts subjects are penalised, not just through the accountability measures, EBacc and Progress 8, but through the total lack of bursaries for those subjects. Yet art and design, for example, is predicted to reach less than half the teacher supply target next year. Will the Government review bursaries for arts subjects?

Baroness Barran (Con): We keep all these policies under review. The noble Earl will know that we have changed bursaries in response to changes in the market in a number of subjects. We will keep that under review, but we also have to prioritise where we think the gaps are most severe.

Lord Grocott (Lab): May I make a helpful suggestion to the Minister, who I am sure would like to see the vacancies in our school system filled? We could get some extra funding to do that by removing the charitable status of private schools and spending the money on teachers in state schools.

Baroness Barran (Con): First, as I hope the noble Lord is aware, next year the level of per-pupil funding will be the highest in real terms that it has ever been. Secondly, the Government believe that we should build on the best that we have in this country in the state sector and in the private sector. I encourage the noble Lord to look at some of the partnerships between state and private schools to see that in action.

Domestic Animals: Welfare

Question

11.18 am

Asked by ***Lord Black of Brentwood***

To ask His Majesty's Government what action they are taking to improve the welfare of domestic animals.

Lord Black of Brentwood (Con): My Lords, in begging leave to ask the Question standing in my name on the Order Paper, I note my interest as vice-chairman of the APPG on Cats.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, the Government are committed to the ambitious agenda detailed in our manifesto and *Our Action Plan for Animal Welfare*. We have delivered six pieces of primary and four pieces of secondary legislation. We supported three Private Members' Bills and have one statutory instrument before Parliament. We launched the animal health and welfare pathway for farm animals in England and we will introduce and support legislative and non-legislative reforms to improve animal welfare during this parliamentary Session and beyond.

Lord Black of Brentwood (Con): My Lords, I congratulate the Government on introducing a compulsory microchipping scheme for cats, which is excellent news. As we know, the kept animals Bill is not going ahead and there will be separate legislation to implement it. A key proposal was to tackle the horrible crime of pet theft, specifically of dogs—I am afraid that cats did not get much of a look-in, despite the fact that the wicked crime of cat theft is on the increase, having quadrupled since 2015. Can my noble friend the Minister tell us when legislation introducing a specific offence of pet abduction will be brought forward and confirm that it will be in this parliamentary Session, as there must be no delay? Will he commit to including cats in it from the outset, given that the devastating impact of losing a beloved cat is just as dreadful and painful as the loss of a dog?

Lord Benyon (Con): I pay tribute to my noble friend for his keen interest in this issue. He is absolutely right that the theft of a pet can have a devastating effect, not just on the welfare of the pet but on the owner. I am pleased that we intend to legislate on this during the remainder of this Parliament. Our new approach to measures that were previously in the kept animals Bill means that we can go further; we could include cats in the offence of pet abduction, which campaigners have been calling for. We recently legislated to require cat microchipping, in addition to dogs, which can provide

an effective deterrent against theft. In the meantime, other recommendations from the pet theft task force are being taken forward.

Lord Trees (CB): My Lords, as a nation of animal lovers we have a somewhat paradoxical attitude to animal welfare, in that some of our most popular dog breeds have such extreme physical conformations that they are predisposed to lifelong health problems. A good example—or bad example, I should say—is the so-called brachycephalic breeds, with very short noses. They suffer chronic respiratory problems, birthing difficulties and a host of other problems throughout their lives. In the light of the actions taken on health and welfare grounds by the Dutch and Norwegian Governments on the breeding of certain dogs, what is His Majesty's Government's assessment of the health and welfare consequences of breeding brachycephalic breeds, such as the French bulldog and pug?

Lord Benyon (Con): My Lords, the Government keep abreast of issues in breeding dogs through our engagements with the sector, including with the UK Brachycephalic Working Group. The Government prohibited the licensed breeding of dogs where their genetic traits, physical characteristics or health could reasonably be expected to result in health or welfare problems for the mother or puppies. Additionally, we raise awareness of issues associated with low-welfare supply of pets through our Petfished campaign.

Baroness McIntosh of Pickering (Con): My Lords, as my noble friend the Minister is aware, the Covid pandemic led to a lot of people buying dogs for company and exercise. Since this time, many of these dogs have been rehomed, putting increased pressure on the dog charities. There also seems to be an alarming increase in puppies being born but not housed. Is there something the Government can do to keep an eye on this and help the charities involved?

Lord Benyon (Con): The dog charities are doing wonderful work on this. I particularly praise the Dogs Trust, having recently visited one of its rehoming units. There is a serious issue around people being encouraged to spend enormous amounts of money to import pets from countries such as Romania, with a heart-rending story involving the welfare of a dog from there. But we have a large number of dogs that need to be rehomed here, through a process that is properly managed by really good charities, such as the Dogs Trust. I urge people to take that path, rather than spending hundreds of pounds on what is becoming an industry. While some people are doing it well, some are not. I encourage people to go through a registered charity and home UK stray dogs that need rehoming as a priority.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, we have debated a number of statutory instruments that aim to improve the health and well-being of animals, including those on the prevention of puppy and kitten smuggling, and on the latest ban of electric dog collars. In the past, commercial kennels have been regulated, including their size, weatherproofing and bedding, and the separation of dogs from different owners was introduced. Can the Minister say whether these measures have been successful? How often are commercial kennels inspected?

Lord Benyon (Con): We work with local authorities to make sure that that is happening. There is a standard required and I am pleased that it has been brought in. I am open to any suggestions of where there has been a failure in regulation, inspection or the physical circumstances of a dog. It is important that this standard is universally applied.

Baroness Hayman of Ullock (Lab): My Lords, while much online animal torture content originates from abroad, some appalling photos and videos shared on social media platforms involve the abuse of domestic animals in the UK. In opposing my noble friend Lady Merron's amendment to the Online Safety Bill yesterday, the Government insisted not only that online instances of animal mistreatment are covered by the 2006 Act, and are therefore in Defra's remit, but that prosecutions against abusers are regularly brought. Can the Minister confirm the number of successful prosecutions in each of the last three years?

Lord Benyon (Con): I do not have that information to hand. However, I hope that all in the House agree that posting grotesque acts of animal barbarity online should be controlled. We have to make sure that we have control over legislation that affects people in this country. If this is being done around the world, it is not impossible to legislate against it but it is more complicated. We want to make sure that, through this and other legislation, we are doing this in the right way and legislating where we can be effective.

Lord Bird (CB): A very interesting point is that a dog can help humanise homeless people and others who are a bit lost, looking for their way in life. The problem is that there are few places where homeless people can take their dogs. It would be a good idea for the Government to lean on some of these hostels and temporary accommodation places to provide more for the dogs that people bring with them.

Lord Benyon (Con): The noble Lord is absolutely right. For people who are in a particularly vulnerable state, whether they have a home or not, a pet can be an extraordinary addition to their life and can help their circumstances. Whether hostels allow dogs is a matter for the people who control those hostels. They might be able to work with organisations that can house the dog while the person is in a refuge, if those kinds of local partnerships are available. I am happy to discuss with the noble Lord how we can make more of that sort of thing available.

Lord Kirkhope of Harrogate (Con): My Lords, my noble friend the Minister is aware of the increasing number of attacks on young children by dogs. Some terrible things are happening as a result of dog owners' negligence. Does my noble friend agree that we should spend more of our resources on educating people who want dogs, so that they look after them, discipline them and make sure that these awful attacks do not take place?

Lord Benyon (Con): Every time there is one of these attacks, there is a horrendous, heart-sinking story behind it. That is why we are working with professional organisations to ensure that the wrong kinds of dogs are not being kept in homes and that people are aware of how they should manage that risk. Sometimes the most tame and genial dog can turn in a heartbeat and become something that can damage a child or even take their life. It is a horrendous situation, and we are working with police forces and third sector organisations to make sure that we keep these awful tragedies to a minimum.

Viscount Thurso (LD): My Lords, I return to cats and declare an interest as the property of a very sophisticated cat called Loki. Is the Minister aware of the problem of cats that are abandoned, particularly in rural areas, before they are microchipped, and the damage they do to other cats and wildlife generally? What can we do about that?

Lord Benyon (Con): Millions of birds are killed by cats every year. We want cats to be owned and managed. The noble Viscount's point is really important and also applies to dogs. If people are buying a cat, they need to go to a registered owner and make sure that it has been microchipped, which is now the law. Buying pets in pub car parks is where the problem starts. They have to be bought through a registered owner and people need to understand that a cat is for life, not just for Christmas.

Decarbonisation

Question

11.29 am

Asked by ***Baroness Blackstone***

To ask His Majesty's Government, further to their consultation on 'Addressing carbon leakage risk to support decarbonisation' published on 30 March, what assessment they have made of the case for extending green procurement targets beyond steel and cement to include other carbon-intensive sectors covered by the UK Emissions Trading Scheme, such as paper and power, and products made from materials covered by the UK ETS, such as vehicles.

The Parliamentary Under-Secretary of State, Department for Energy Security and Net Zero (Lord Callanan) (Con): My Lords, the Government are currently exploring options for utilising public procurement to create demand for green industrial products. We have sought views via consultation to help develop proposals for policy measures that support the growth of low-carbon industries. The Government's *Construction Playbook* advises that projects should be accompanied by a whole-life carbon assessment and PPN 06/21 requires suppliers bidding for major government contracts to commit to net zero by 2050 and to publish a carbon reduction plan.

Baroness Blackstone (Lab): My Lords, I am grateful to the Minister for his response, but I wonder whether I can press him a little further. In the Government's consultation, they propose to use minimum product standards to protect just two or three sectors from unfair competition from overseas and not to bring in these measures until late in the 2020s. Should not the Government be setting minimum product standards across a wider range of sectors, and sooner, to protect domestic manufacturing from unfair competition, especially from China, where grid electricity has twice the carbon intensity and is half the price compared with the UK?

Lord Callanan (Con): The consultation only closed at the end of last month, so the noble Baroness will need to give us a bit of time to analyse the hundreds of responses that we received. It is a complicated issue, and we of course understand the desire for quicker action, but there is a whole range of factors to be taken into account. We have to be very careful not to indulge in some form of green protectionism, where we incentivise lower-standard products against others that are better performing. Across a whole range of sectors and procurement areas, it is a complicated issue that deserves to be studied properly.

Lord Hannan of Kingsclere (Con): My Lords, the essence of climate change is that it is global and does not recognise borders. It is very disappointing that we have so many calls for responses that are essentially protectionist, introverted and selfish. Will my noble friend confirm that, just because our allies in the United States—and indeed in the European Union—are going down the road towards protectionism, carbon adjustment taxes and so on, this country will not disadvantage itself or raise the price of the green technologies that we need to combat this global problem?

Lord Callanan (Con): My noble friend has been steadfast for many years in his support for free trade—a cause that I manifestly agree with. But it is a complicated issue. It looks as though the EU and US are going down the road of carbon adjustment mechanism taxes, but, as I said in my Answer to the noble Baroness, Lady Blackstone, it is a complicated issue. For instance, do we want to incentivise the installation of poorer-quality solar panels that may be constructed with lower carbon intensity, or better-quality solar panels? That is one example of millions that I could give.

Lord Jones (Lab): My Lords, does the Minister acknowledge that, while we need green policies, there is a major problem concerning the British steel industry? Successive Governments have imposed what have been, in effect, green taxes on a great foundation industry. Now, very little of the steel industry remains. For example, does he realise that the great integrated steelworks—the only remaining integrated steelworks in Britain—is hanging on by its fingertips? The ailing steel company Tata calls for more investment. How can he see his Government urgently giving more investment to save Britain's steel industry? If Britain is to remain a great nation, as she must, she needs the foundation industry of steel. If ever there shall be war, you need steel.

Lord Callanan (Con): I totally understand the point that the noble Lord is making. He highlights the dilemma of carbon-reduction policies in these areas, where we impose carbon taxes and emissions trading

systems and schemes, and of course that has an effect on domestic industries that emit a lot of carbon—the so-called carbon leakage problem. We are working closely with the steel industry to try to help it adjust to greener manufacturing methods, and of course it receives free emissions permits.

Baroness Sheehan (LD): My Lords, recent reports that the Government are considering rowing back on their flagship climate finance commitment of £11.6 billion to assist lower-income countries to reduce their emissions, adapt to climate change and protect the natural environment are to be deplored. Those global benefits affect us all and would be lost to us all. Does the Minister agree that using a proportion of the funds raised through CBAM, the carbon border adjustment mechanism, to support low-carbon transition in least-developed and climate-vulnerable countries would be enlightened self-interest?

Lord Callanan (Con): The noble Baroness is asking me to comment on tax policies and hypothecation of taxes, which are matters in the purview of the Chancellor of the Exchequer. I shall make sure her views are communicated to him.

Lord Lennie (Lab): My Lords, the Government's IDDI consultation, which the noble Baroness, Lady Blackstone, referred to, sets out four levels that are being considered. The Government make a firm statement about their policies achieving levels 1 and 2. With level 3, the Government say that they are minded to achieve it. As for level 4, which is about achieving the UK's decarbonisation objectives, the Government say that they may commit to it. When can we expect decisive leadership so that we commit to achieving all four of these IDDI objectives?

Lord Callanan (Con): My Lords, I am slightly disappointed by the tone of the question. We are already showing decisive leadership: we are one of the only countries in the world to already have green procurement strategies for major public procurement. This is a complicated area, as has been illustrated by the questions from the noble Lord's own Benches. We need to make sure that we get it right and do not disadvantage British industries or drive up the cost for consumers.

Lord Kamall (Con): My Lords, while one of the advantages of carbon border adjustment measures and other green taxes is that they tax negative externalities, hopefully to encourage better green policies, one of the downsides is obviously that that might then feed into the cost of production and that cost is then passed on to consumers. One concern for many people about green policies, even though they support them, is that when we introduce green taxes, they are often not fiscally neutral, so people end up paying more. Have the Government looked at how they can balance these challenges to make sure that, when a green tax is introduced, tax is removed elsewhere to encourage better behaviour and have a positive outcome for green policies?

Lord Callanan (Con): My noble friend makes an important point. On all these policies, we have to make sure that we get the balance right between fulfilling our legally binding commitments and making sure we do not disadvantage consumers and drive up costs for ordinary men and women.

Lord Inglewood (Non-Afl): My Lords, does the Minister agree that emissions trading schemes offer a very valuable opportunity for regions of both this country and elsewhere that are essentially rural and agricultural, away from centres of population and wealth at present, to generate an income that they desperately need to level up the living standards of people in these places to some kind of equivalence with the richer parts of the country?

Lord Callanan (Con): I understand the point that my noble friend is making. A happy by-product for the Treasury of the emissions trading scheme is the considerable revenue that it generates, and I am sure that it is spending all this money very wisely.

Lord Teverson (LD): My Lords, the EU-UK Trade and Cooperation Agreement, which the Government negotiated, had a clause that said that the two sides should talk further about the EU and UK emissions trading systems, and that they should be connected and start to work together. That has been strongly endorsed by most sectors of British industry. Have those negotiations started? If so, great; if not, why not?

Lord Callanan (Con): My Lords, I appreciate the desire of the Liberal Democrats to get us into the EU regulatory orbit as quickly as possible. As with many things, there are arguments for and against the linking of the two ETS systems. They are equivalent—in fact, ours is probably slightly more ambitious than that of the EU. We will continue to explore this policy with the Commission.

Baroness Hayman (CB): My Lords, I declare my interests as set out in the register. Does the Minister agree that, far from investment in and nurturing of green initiatives and technologies being detrimental to this country—as the noble Lord, Lord Hannan, said—investing in green technology for things such as steel and cement production not only helps those industries in this country but helps our economy and international competitiveness?

Lord Callanan (Con): I do not want to put words into my noble friend's mouth, but I do not think that he was attempting to argue that we should not invest in green products and services. He was merely pointing out the difficulties in international trade where, for some countries, there will be a temptation to use green excuses to introduce protectionist policies. Free trade has been an immense benefit to all of us in the developed and developing world, and we should be very careful to make sure that we maintain those benefits.

Operation Soteria

Question

11.39 am

Asked by ***Baroness Chakrabarti***

To ask His Majesty's Government what assessment they have made of (1) the effectiveness of Operation Soteria, and (2) last year's statistics on the (a) attrition rates, and (b) waiting times, in cases of reported rape in England and Wales.

The Advocate-General for Scotland (Lord Stewart of Dirleton) (Con): My Lords, there are early signs of improvement. In the pioneering Soteria force, Avon and Somerset, the number of cases charged has more than tripled; the number of victims who withdrew at the police stage and post charge remains high, as does the time it takes for cases to pass through each stage of the system. There is further to go to improve the response to rape, but I am pleased to report that all 43 forces are now implementing the Soteria approach.

Baroness Chakrabarti (Lab): I am grateful to the noble and learned Lord the Minister, who is of course a law officer and a criminal lawyer of some distinction. But prosecution volumes are lower now than 10 years ago, despite reported rapes being up by 30,000. He will know that this is a particularly complex and sensitive offence, and it requires resources. Is it not time to experiment with specialist rape courts to give this grave offence the priority and the resources it needs?

Lord Stewart of Dirleton (Con): My Lords, I am grateful to my noble friend for her Question and for giving me of her time yesterday at our informal engagement so that she could outline the thinking behind this Question on an exceptionally important topic. She asked about introducing specialist courts for sexual violence; we have already completed a national rollout of pre-recorded evidence, which spares victims the ordeal of having to appear in a live courtroom and assists them in giving their evidence to the best effect. We will update the victims' code so that CPS prosecution teams must meet with rape victims ahead of court cases to answer their questions and allay any concerns that they may have. In the next phase of our specialist sexual violence support project, we will ensure that participating Crown Courts have the option to remotely observe a sentencing hearing by videolink, and that will be available to any victim of crime who seeks it, subject to the agreement of the judge.

Lord Hogan-Howe (CB): My Lords, there certainly are some improvements—and that is to be commended—but they are incremental against, as the noble Baroness, Lady Chakrabarti, said, the stages of the process. It is a particularly difficult set of crimes to investigate, often because of the consent issue where there is an existing relationship or, alternatively, because 70% of the victims are vulnerable at the time of the attack; in fact, they are often selected because of age, infirmity, alcohol or whatever. I wonder whether it is time for the Law Commission to consider whether the law fits the nature of the crime and whether it would allow research with juries to understand why they do not convict in some of these cases—something that is not allowed now. Otherwise, I think both the investigators and the prosecutors are getting worried about the prejudices exhibited sometimes by juries and therefore the charges do not go forward and the whole system stops. I just wonder whether it is time for an objective look at the crime as well as the investigation.

Lord Stewart of Dirleton (Con): My Lords, I am again grateful for that contribution from the noble Lord, who of course speaks from his professional insight and great experience in investigating and superintending police officers working on this. I am aware that there is objective data about jury responses to crimes available which is the result of meticulous study in England and Wales. I can also assure the noble Lord and the House that we as a Government are working with the Law Commissions in relation to that.

Baroness Sugg (Con): My Lords, protection for victims is a key part of how we will see improvements here, and the Government's end-to-end rape review action plan committed to reducing unnecessary and disproportionate requests for personal information. Can my noble and learned friend the Minister update me on progress in this area?

Lord Stewart of Dirleton (Con): Once again, my noble friend makes an exceptionally important point. Progress on the implementation of Operation Soteria has touched on matters such as the essential aspect of possession and use of a mobile phone. People nowadays are entirely dependent on their phones in all sorts of ways. As the noble Baroness and other noble Lords who have contributed will appreciate, mobile phones are often pivotal in the investigation and accumulation of sufficient evidence with which to bring a charge. We are taking steps, and the Soteria principles set out, so that phones will be away from people for one day at the most.

Baroness Hussein-Ece (LD): My Lords, Operation Soteria has been widely welcomed and it is positive to see the encouraging outcomes in the pilot areas, as the noble and learned Lord has outlined. But we know that, to improve rape prosecution, there needs to be meaningful action to transform policing culture, in which institutional misogyny, racism and other forms of discrimination are harming survivors. What further action is being taken to tackle this corrosive culture of abuse? Police abuse of power for sexual purposes is now the biggest form of corruption dealt with by the police complaints body, and we need to tackle this.

Lord Stewart of Dirleton (Con): The Government have established a unit in the Home Office which will work in conjunction with police chief constables in order to attempt to shape police responses, attitudes and—for want of a better expression—the general culture within the police force. Beyond that, I hope I can give the noble Baroness some assurance that, from now, all new recruits and first responders will be trained and acquainted with the Soteria principles.

Baroness Kennedy of The Shaws (Lab): A number of years ago, a very interesting initiative that was put in train was the creation of something called SARCs—sexual assault referral centres. Women could go to these special centres, where they would be examined by doctors and nurses who were specially trained, there would be people who could counsel and it was not about policing at that stage. It allowed young women who had been raped to have the swabs and the forensic evidence taken and put into a place of safety and kept if there was going to be a prosecution. But the women were not forced initially to make a decision—

A noble Lord: Question!

Baroness Kennedy of The Shaws (Lab): The question is, and it is an important one: what has happened to those SARCs? How many are there in the country? They seem to have disappeared off the radar, and young women do not even know that they exist.

Lord Stewart of Dirleton (Con): My Lords, I do not have to hand the information that the noble Baroness seeks, but I undertake to write to her. I am aware of the existence of SARCs. They came in and were located within hospitals so that people did not face the daunting prospect of immediate engagement with the criminal justice system but were brought in gradually. I share the noble Baroness's concern about this matter and, with her leave, will write to her.

Lord Campbell of Pittenweem (LD): My Lords, the Minister will understand that my experience in relation to prosecuting and defending rape is, to put it mildly, dated. He will, of course, be aware of the proposals now being made north of the border. To what extent are these being taken into account in the other jurisdiction in which he has responsibility?

Lord Stewart of Dirleton (Con): My Lords, I am happy to say that my professional arc and that of the noble Lord have coincided, so he and I share experiences in this field. The point the noble Lord makes is—as the noble Lord is—an evergreen one. Certain essentials in relation to these matters exist and will always exist. On the specific matter the noble Lord raises, in my ministerial post I am very conscious of developments in Scotland and assure the noble Lord that, together with the England and Wales law officers—with whom I am in regular contact: we have a meeting once a week—we share with one another data and experiences and the work that we carry out in the field in order best to improve practices in all jurisdictions.

Baroness Thornton (Lab): My Lords, of course, we all welcome any reversal of the catastrophic collapse of rape prosecutions since 2017. However, conviction rates seem to be flatlining. I know that the press release from the MoJ says that more rapists were put behind bars, but if you dig into those figures, that 3% increase meant 12 convictions—I think that is fewer than any year from 2010 to 2018. Will the noble and learned Lord the Minister tell the House when the backlog which leads to two-year waits—which are so corrosive with rape issues and the lack of making progress on rape—is going to be reduced and how?

Lord Stewart of Dirleton (Con): My Lords, the Operation Soteria principles in relation to this field are directed to improving every aspect of rape prosecution and the management of people complaining of those serious crimes. I can give the noble Baroness some assurance, but she will appreciate that the data that I give is, in essence, at an early stage, because the reforms that Soteria introduced will take time to bear fruit—she is good enough to nod in assent that she appreciates the difficulties. The outcomes have varied between the participating forces thus far. The joint council between the Home Office and police officers that I mentioned earlier will examine quite why that should be. We have seen encouraging results in Avon and Somerset, in Durham and in the West Midlands. In the last example, the number of cases referred has doubled—I appreciate that that is not the matter with which the noble Baroness is specifically concerned, but referrals have risen by 108%. In that area, I think that the House can take some comfort and think that Soteria's workings-out are bearing fruit in policing practice.

Industrial Training Levy (Engineering Construction Industry Training Board) Order 2023

Motion to Approve

11.51 am

Moved by ***Baroness Barran***

That the draft Order laid before the House on 7 June be approved. *Considered in Grand Committee on 5 July.*

Motion agreed.

Levelling-up and Regeneration Bill

Report (2nd Day)

Relevant documents: 24th and 39th Reports from the Delegated Powers Committee. Scottish, Welsh and Northern Ireland Legislative Consent sought.

11.52 am

Clause 8: Constitutional arrangements

Amendment 26

Moved by ***Lord Shipley***

26: Clause 8, page 8, line 4, leave out paragraph (f)

Member's explanatory statement

This amendment would ensure that the duty to allocate seats to political groups to the executive of a CCA or to a committee of such an executive would continue to reflect the requirement for political balance defined in the Local Government and Housing Act 1989.

Lord Shipley (LD): My Lords, I shall speak also to Amendments 30, 31 and 43 in my name. On Tuesday, I spoke on Amendment 51; I share the concerns expressed on that occasion by the noble Lord, Lord Hunt of Kings Heath. I am a signatory to that amendment, in the name also of the noble Lord, Lord Bach.

[Lord Shipley]

I have a particular concern in relation to Amendment 30. I should give the Minister notice that, assuming that the response I get is similar to the one I got in Committee, it is my intention to test the opinion of the House.

On Amendment 26, I expressed concern in Committee that the Local Government and Housing Act 1989 will be disapplied in so far as political balance is concerned on a combined county authority. All this group is about power structures in combined county authorities. Some of the proposals in the Bill are worrying because they will centralise power within a CCA. The disapplication of the Local Government and Housing Act 1989, because it eliminates political balance on a CCA, could lead to dominance by one party in the combined county authority and encourage a further centralisation of power.

I also have a concern about centralisation of power away from CCAs into the Treasury. With Amendment 43—I raised this matter too in Committee—I am concerned that, in terms of the Government's ambitions for devolution, of which a great deal is claimed, no further devolution of fiscal powers is planned that I can see. For example, in the recent West Midlands deal, there is provision for the collection of local business rates locally for 10 years, but other fiscal powers are missing from that devolution agreement. I therefore have a concern in respect of Amendment 43 as well. I do not plan to test the opinion of the House on it but I hope that the Minister will understand that it is important to have a system for power structures that will stand the test of public scrutiny. I fear that these do not.

The noble Baroness, Lady Taylor of Stevenage, has two amendments in this group. I shall say nothing about those other than these Benches will support her if she decides to seek a vote on either Amendment 28 or Amendment 29.

Amendment 31 raises a fundamental issue of principle that the amendments in the name of the noble Baroness, Lady Taylor, also address: the concept of a non-constituent member of a combined county authority. That is a body, not an individual member; I will come to associate members, which are about individuals, in a moment. It refers, of course, to district councils. My Amendment 31 tries to make it clear that, where a council is the local planning authority, it really ought to be a full member of a CCA. I do not understand why that principle is opposed by the Government. I can hear the objection to what I am saying, which is, "Well then, a county will be dominated by the districts", but there is a power in the Bill to organise a voting system, weighting it appropriately by population, to solve that problem. As a matter of principle, a district council that is a local planning authority should not be excluded from full membership of a CCA.

I move briefly on to Amendment 30. As I have said, I have a concern about the centralisation of power. There should be a principle, understood and agreed by all parties, that voting members in a CCA should be full members of the CCA and not part-time or temporary members. For that reason, I am in favour of non-constituent councils being full members of a CCA, which I have tried to explain in the context of the local planning authority.

Amendment 30 in my name seeks to prevent one party with majority control of a CCA appointing individuals as associate members then giving them a vote when those individuals are not full members of the CCA. I cannot think of any parallel. I understand why there may be a category of associate member; what I have not understood is why a CCA would have the power to permit an associate member, an individual, to have a vote on an issue. I raised this matter in Committee. The noble Earl, Lord Howe, will forgive me if I quote to the House what he said on that occasion because I got very worried about this. He said:

"For instance, a combined county authority may have provided for an associate member who, for example, may be a local business leader or an expert on a local issue to enable the member's input on matters on which they have relevant expertise in the CCA's area".—[*Official Report*, 27/2/23; col. 113.]

Noon

I understand totally that you may wish to hear from somebody who has expertise. It is a very different matter to say that that individual, for temporary purposes, could have a vote on an issue. Who decides who is a business leader? I served for seven years on a regional development agency. I was appointed by the Secretary of State. The business leaders who were on the regional development agency were appointed by the Secretary of State. Here the appointment will be made by the CCA.

As I try to point out in Amendment 26, the CCA's structure as it is now composed, because it disapplies the Local Government and Housing Act 1989, means that the power structure is being heavily centralised and it is not necessary for associate members to be given a vote. It could lead to an abuse of power, and that is what I am seeking to prevent.

I will finish by quoting the noble Earl, Lord Howe, further, because there was quite a debate on this issue late in Committee. He said:

"The point I was seeking to make is that the CCA would in some, if not many, circumstances want to maximise the input from associate members by allowing in certain circumstances those associate members to vote on such matters. The amendment would prevent that happening and could risk undermining the combined county authority's ability to work in collaboration with local experts who can contribute positively to the working of the CCA".—[*Official Report*, 27/2/23; col. 113.]

I do not understand what that means. They can work "positively" alongside the CCA as an associate member. The question is whether they should have a vote. I submit to the Government yet again the view that they should not have a vote and that the only people who should have a vote are the full members of the CCA. I beg to move.

Lord Hunt of Kings Heath (Lab): My Lords, I very much support the noble Lord, Lord Shipley, particularly about the district council situation. Noble Lords might recall that in Committee I raised the issue of Oxfordshire and Oxford City Council, of which I used to be a member, which would be a non-constituent member of the combined authority, but Oxford University could be invited to come in as a participating member under this thing, and that does not seem right.

The noble Lord also kindly mentioned my Amendment 51, which is related to my Amendment 53A, which we debated on Tuesday, albeit to a rather limited

audience; the formal taking of the amendment comes up later. My Amendment 51 would retain the right of members of a combined authority to give their consent to a change in the membership of the combined authority. Currently, Clause 51, quite extraordinarily, takes that away from the members of a combined authority so that members of a current combined authority have no say whatever in whether the boundaries of that combined authority should be extended and a new member brought in, despite the consequences for the combined authority.

This takes us back to the West Midlands, I am afraid, because we know why this is being done. This is being done to gerrymander the boundaries of the West Midlands Combined Authority to give Andy Street, the Tory mayor, a chance of being re-elected next May, and the Minister tabled late amendments to make this easier. This is being done over 12 weeks. The cabinet paper to Warwickshire County Council, which I think was discussed this week, makes it clear that in order for this to be rushed through, it must undertake a governance review and publish a scheme with details of the proposed expanded area of the West Midlands Combined Authority and its membership, voting and other constitutional arrangements, functions and the way it would be funded. A public consultation also has to be undertaken—in August, essentially, because Ministers have told the county council that to meet the deadline for the May election an application must be submitted in early October. The paper to the council cabinet openly admits that this

"may require … urgent decisions being made during the process";

in other words, the consultation is a sham because we know that the decision has already been made in the Minister's department. So much is unknown, not least the financial consequences for Warwickshire. Indeed, what about the impact on the existing members of the combined authority, who have no say whatever in whether this should happen because of the Bill before us today?

On Tuesday, the Minister very kindly said that the Bill is a bottom-up process, but this decision has already been made. So why is her boss intensely engaged with the county council to persuade it to do it? Can she answer that question? Can she also tell me whether the MPs in Warwickshire have been consulted? One would have thought that when considering something as dramatic as putting Warwickshire into the West Midlands Combined Authority the Government might have asked all the MPs what they thought about it. I do not think that has happened.

I love Warwickshire. I live quite close to it, as the Minister knows. It is a delightful county. Do the people of Warwickshire really want to be absorbed into an urban combined authority? Do they really want a mayor situated in Birmingham to have such a key influence on their affairs? Indeed, the same could be said for Shropshire, where, again, I think Mayor Street seems to be very interested. I do not think so. I do not think the shire counties in the West Midlands want this, and we should change the Bill to make sure that it cannot happen without the consent of combined authority members as they are.

Baroness Taylor of Stevenage (Lab): My Lords, I rise to speak to my Amendments 28 and 29 in this group and will make some brief comments on the other amendments. We completely understand the point made by the noble Lord, Lord Shipley, in Amendment 26 that the current way that combined authorities are brought together means that they could very well not be subject to any political balance mechanisms and the power structures could be centralised, as the noble Lord outlined.

The Local Government and Housing Act 1989 provisions are designed to deal with, for example, political proportionality on council committees. Of course, the political balance of combined authorities will vary across the country depending on the make-up of the constituent members, who will have been selected by dint of local elections. Although it is not impossible to put a balancing mechanism in place, it is difficult to see how that could be addressed without introducing a considerable level of complexity. It may result in some areas being represented by members who were not leaders in their own council, for example, which might bring its own difficulties. We need to think about how we get a sense of political proportionality in these combined authorities.

My Amendments 28 and 29 and Amendment 30, tabled by the noble Lord, Lord Shipley, seek similar objectives. In Committee, as far back as March, we had long discussions about the composition of combined authorities and the role of the respective councils on them in two-tier areas. I will not repeat all the points I made then but will focus on the key issues. First, the presumption in the Bill that only county councils deal with strategic issues is based on an outdated idea of district councils and is entirely wrong. As a brief example, the workstreams on the Hertfordshire growth board planning for the future of the whole county consist of town centre development, growing our economy, housing growth, tackling climate change, et cetera, and are all led by district leaders. It is hard to see how willing they would be to do that if they did not then play a full part in the work of the full growth board and were not allowed voting rights at its meetings.

In response to the point I made on this in Committee on 15 March, the noble Earl, Lord Howe, responded that district councils

"cannot be a constituent member of a co-operative local government grouping whose membership is determined by reference to strategic functions and powers which are the primary province of upper-tier and unitary authorities. That is the logic". —[*Official Report*, 15/3/23; col. 1342.]

I do not see the logic of excluding the strategic leaders of 183 councils that not only run services but are responsible for the planning, housing and economic development of 68% of the land in the UK from taking part in strategic functions and powers.

My noble friend Lord Hunt has set out his concerns about the proposals relating to boundaries. He rightly points to the dangers of these being used for gerrymandering. It is simply not acceptable to use primary legislation for that purpose; it is the very opposite of devolution. My noble friend used the example of Wiltshire the other day and Shropshire today. I think also of Hertfordshire,

[Baroness Taylor of Stevenage]
right on the borders of London, and the idea of it being scooped into a huge authority without leaders in those areas having a say is unthinkable.

The Government's proposal in the Bill that combined authorities may give their associate members a vote but do not have to give that same ability to district council members or leaders leaves combined authorities in the unprecedented and very unwelcome situation of having democratically elected representatives on their body who cannot vote and appointed members who can. That is surely not tenable. The amendment from the noble Lord, Lord Shipley, recognises this issue and would restrict associate members from voting. We urge the Government to consider that, if other amendments in this group are not successful. If the noble Lord, Lord Shipley, is minded to test the opinion of the House then he will certainly have our support on that.

My Amendment 28 would automatically confer voting rights on non-constituent members, but we would prefer that that was in the hands of the combined authorities themselves. Amendment 29 would establish a process for the Minister to introduce a mechanism that could allow combined authorities to give non-constituent members full member status. We feel strongly that this decision should absolutely rest with the combined authorities themselves. It is the opposite of devolution for the Government to determine which locally elected representatives should be permitted to take part in local decision-making and which should not. The noble Lord, Lord Shipley, has outlined clearly that weighted voting systems are perfectly possible. Therefore, unless we hear from the Minister that there has been a change to the Government's view on this issue, we would like to test the opinion of the House.

Earl Howe (Con): My Lords, Amendment 26, in the name of the noble Lord, Lord Shipley, would prevent the executive of a combined county authority being able to represent the political make-up of its members. As I made clear in Committee, that is not something that the Government can agree to. A CCA will be made up of members from each constituent council on a basis agreed by those councils through their consent to the establishing regulations, which will provide for the make-up of the CCA's executive. It is essential that the CCA's executive properly reflects the local political membership of that CCA, which this amendment would prohibit. It would also place the CCA's executive in a different position from those of a local and combined authority, which do not require political balance under existing legislation. I do not believe I can say any more but I hope the noble Lord will see why I cannot accept his amendment and that, on reflection, he will agree to withdraw it.

Amendments 28 and 29 from the noble Baroness, Lady Taylor of Stevenage, seek to allow a combined county authority's non-constituent members to be able to be made full constituent members and to give non-constituent members the same voting rights as full constituent members. Conversely, Amendment 30 from the noble Lord, Lord Shipley, would prevent associate members being given any voting rights, and his Amendment 31 would make planning authorities constituent members.

A key underlying factor of the CCA model is that only upper-tier local authorities can be constituent members and have the associated responsibilities. That is the key difference between it and the existing combined authority model, which, I remind the House, remains available to areas. A non-constituent member of a CCA is a representative of a local organisation; it will not necessarily represent a local authority. I make that point because, since a CCA is a local government institution, it would be inappropriate for any organisation other than an upper-tier local authority to be a constituent member. Constituent members are those who collectively take the decisions of the CCA and are responsible for funding it.

It would also be inappropriate for the same voting rights to be conferred on all non-constituent members, given the range of potential bodies. The CCA should have flexibility to vary voting rights to reflect its membership. We want there to be genuine localism in this area, as in others. Depending on the decision of the combined county authority, its non-constituent members can be given voting rights on the majority of matters.

12.15 pm

As associate members will be appointed by a CCA for their expertise on a particular topic—for example, a police and crime commissioner on public safety—the CCA may deem it suitable for the associate member to be given voting rights on that subject. Again, in line with the Government's policy, the model allows for genuine localism; it is down to the combined county authority to decide whether or not associate members should have voting rights on CCA matters and what those voting rights should be, rather than that being imposed by Westminster.

We believe that associate members should be permitted to be appointed to CCAs because of the expertise they have in certain matters, and that they should be able to vote on those matters if the CCA decides that that is appropriate. It is important to emphasise that the whole CCA has to agree to the decision to confer voting rights on non-constituent and associate members. It is not a mayoral decision, so it cannot be abused by one individual for their own gain.

While we appreciate the intention behind Amendment 31, it would undermine the CCA model, in practice removing any differences between it and the existing combined authority model. The result would be to prevent devolution in areas with two-tier local government.

Noble Lords should be reassured by two things. First, the drafting of Clause 16 means that planning functions, or indeed any functions, cannot be stripped from district councils and conferred on a CCA. Secondly, our arrangements provide for CCAs to be able to liaise with district councils on important matters, such as planning, via flexible methods that reflect local circumstances, without impinging on the role of district councils.

I turn to Amendment 43 by the noble Lord, Lord Shipley. The Bill already provides mechanisms for fiscal devolution powers of local authorities and public authorities to be conferred on a CCA under Clauses 16 and 17. The Government trust local government and its strong and accountable local leaders.

Level 3 devolution deal areas can look to finance local initiatives for residents and business through a mayoral precept on council tax and supplements on business rates, as set out in the levelling up White Paper. We are exploring further fiscal devolution, initially through the trail-blazer devolution deals with the Greater Manchester and West Midlands Combined Authorities, and we will consider putting power in the hands of local people through greater fiscal freedoms. We are currently doing so, as I have just explained, through those two trail-blazer deals.

Lastly, I turn to Amendment 51 in the name of the noble Lord, Lord Hunt of Kings Heath. Devolution deals are agreed and implemented over sensible geographies. Local consent under the new arrangements in Clause 57 would be given by the mayor and the council that wishes to join the combined authority. The mayor is democratically accountable to the whole existing combined authority area, so it is right that they should be the decision-taker on decisions on changes to that whole area.

Incidentally, we have not, as the noble Lord suggested, put forward any amendments to Clause 57. The noble Lord indicated his view that this was all about gerrymandering. I must emphatically repudiate that suggestion. Warwickshire County Council's plans are part of a local process for the area—the county and district councils—to apply to join the West Midlands Combined Authority. If Warwickshire decides to pursue this, it must undertake a process.

Any proposal to expand an area of a combined authority comes from the local area. It must make a strong case that doing so will deliver real benefits to the local area and include a public consultation within it. Before making regulations to change the area, the Secretary of State must consider that doing so is likely to lead to an improvement in the economic, social and environmental well-being of some or all of those who live or work in the area, and have regard for securing effective and convenient local government, reflecting the identities and interests of local communities. This provision still requires the triple lock of consent: from the local area via the mayor and the submission to the Secretary of State, including a public consultation; the Secretary of State, on behalf of the Government; and parliamentary approval for laying the legislation enacting any such changes.

Lord Hunt of Kings Heath (Lab): My Lords, I want to make two points. The Minister said that this is not about gerrymandering. I suspect he would say that, wouldn't he? I am a resident of Birmingham, and Birmingham City Council is a huge local authority—a member of the West Midlands Combined Authority. Do we not get any say at all in whether the boundaries should be extended to Warwickshire? Surely the current constituent authorities have a legitimate role in consenting to the boundaries being extended.

The second point is that the amendment I referred to, government Amendment 34, allows work to be done in relation to this in advance of Royal Assent—which is a highly unusual move, I suggest.

Earl Howe (Con): I simply remind the noble Lord, in answer to his first point, that there has to be a public consultation. That is when the views of all interested parties can be taken into account. Retaining the present arrangements, which I guess the noble Lord would like to do, could mean that the expansion of a combined authority—where the evidence shows that would be likely to improve outcomes across the proposed whole new area—could end up being vetoed by one existing constituent council if the combined authority's local constitution requires unanimous agreement from its members on this matter. That could happen, irrespective of support from the potential new member, the mayor and the great majority of constituent councils.

I hope the noble Lord appreciates why these provisions are framed as they are. I know that he believes there is an underlying malign motive. Again, I emphatically repudiate that idea. The current regime acts as a barrier to the expansion of an existing combined authority, even when there is a clear economic rationale in favour of it. The Bill will make it less difficult for combined authorities to expand into more complete and stronger economic geographies. For that reason, I ask him not to press his amendment when it is reached.

Lord Shipley (LD): My Lords, I am grateful to the Minister for his reply. He has not allayed my concerns about the dangers of greater centralisation of power in a CCA, and I am unconvinced by his argument about local planning authorities. I still think that a district council which is a local planning authority ought to have an absolute right to membership of a CCA. It should not be at the discretion of existing members of a combined authority. We may come to that issue in a moment, but for the time being I beg leave to withdraw Amendment 26.

Amendment 26 withdrawn.

Amendment 27 not moved.

Clause 9: Non-constituent members of a CCA

Amendment 28 not moved.

Amendment 29

Moved by ***Baroness Taylor of Stevenage***

29: Clause 9, page 9, line 30, at end insert—

"(7) A Minister of the Crown may by regulations establish a process for non-constituent members to become full members."

Member's explanatory statement

This intended to establish a mechanism for non-constituent members to become full members.

Baroness Taylor of Stevenage (Lab): My Lords, I remain unconvinced by the arguments that have been put us, so I would like to test the opinion of the House.

12.25 pm

Division on Amendment 29

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Amendment 29 agreed.

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12.35 pm

Clause 10: Associate members of a CCA

Amendment 30

Moved by ***Lord Shipley***

30: Clause 10, page 9, leave out line 35

Member's explanatory statement

This amendment seeks to ensure that only full members of a CCA would have the right to vote.

Lord Shipley (LD): My Lords, I find myself unconvinced by the Minister's reply on associate members' right to vote. I wish to test the opinion of the House.

12.35 pm

Division on Amendment 30

Contents 164; Not-Contents 155.

Amendment 30 agreed.

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12.46 pm

Clause 11: Regulations about members

Amendment 31 not moved.

Schedule 1: Combined county authorities: overview and scrutiny committees and audit committee

Amendment 32

Moved by ***Lord Shipley***

32: Schedule 1, page 280, line 33, leave out "at least one member of an audit committee is" and insert "a minimum of three members of an audit committee are"

Member's explanatory statement

This amendment would help ensure a strong presence of knowledgeable, independent persons on an audit committee thus avoiding too great a dependence on members of constituent councils.

Lord Shipley (LD): My Lords, I have two amendments in this group. It is not my intention to speak at length about them or to test the opinion of the House.

I have a great concern about the role of audit. I do not think that the existence of Oflog is sufficient to address the problems that we have experienced recently around processes in local government being inadequate to prevent excessive expenditure—particularly capital expenditure—which has spiralled out of control. There is a big issue for local authorities and combined authorities to address in terms of their ability to undertake an audit effectively. We are aware that a number of local authorities have not had their audits signed off for some time. There seems to be a capacity problem across local government in terms of the audit function.

All that said, my amendment is not a matter on which I will divide the House. I just hope that Ministers will try to address the issue of capacity in the audit function on audit committees where they exist. There will be audit committees for a CCA. I would like to think that enough expertise will be there to do the job properly. Simply to have at least one member is not enough. I have proposed a minimum of three. This is very important. When councillors are members of an audit committee, they have many demands on their time. What is required is a more professional focus of those who are trained in the area.

The second amendment relates to the ability of an audit committee, where it exists, to publish a report. At the moment, it is required to report to the CCA. I do not know what will happen if the CCA decides that it does not like it or does not want to publish it. Does the CCA have the power to prevent publication? I hope to hear from the Minister that something can be done to reassure me that an audit committee of a CCA can publish a report, even if the CCA does not wish it to do so, where the audit committee believes it to be in the public interest.

These two amendments are as simple as that. I am very happy for the Minister to take the issue away, to see what might happen when some of these statutory instruments start to come through your Lordships' House. I beg to move Amendment 32.

Baroness Hayman of Ullock (Lab): My Lords, I shall be very brief. I want to express our support for the amendments of the noble Lord, Lord Shipley, and to reiterate our concerns around audit and Oflog and how that will operate within its responsibilities. We need to ensure that there is a sufficient set-up to deal with the huge problems facing local authorities regarding audit. We know that some authorities have not had an audit for years, so this is clearly a real problem. We thank the noble Lord for tabling the amendments and hope that the Minister and the department will look carefully at his concerns and constructive suggestions, as we really need to resolve this issue.

Earl Howe (Con): My Lords, Amendments 32 and 33 in the name of the noble Lord, Lord Shipley, seek to increase the transparency of CCAs. Greater functions and funding must come with strong accountability,

but that must go hand in hand with decisions being made at the most local level possible. I can deal with this quite briefly and, I hope, to the noble Lord's satisfaction.

As the Bill is drafted, a CCA's audit committee can appoint three independent members, should it wish to, but it should be a matter for the CCA to decide exactly how many above one. The regulations that will establish the combined county authorities will set out the audit committee arrangements. They will provide that, where practicable, the membership of the audit committee reflects the political balance of the constituent councils of the combined county authority. Membership may not include any officer from the combined county authority or the combined county authority's constituent councils. The regulations will provide for audit committees to appoint at least one independent person.

As regards transparency, in addition, Part VA of the Local Government Act 1972 provides powers to require the publication of reports of a committee or sub-committee of a principal council, including audit committees. Schedule 4 to this Bill already includes a consequential amendment to apply Part VA to CCAs.

I hope that that is helpful. The noble Lord has already kindly said that he will not press his amendment, but I hope that what I have said will reassure him.

Lord Shipley (LD): I thank the Minister for his assurances. I think there may be a way forward here—I hope very much that, at the very least, we will have strong guidance. When the statutory instruments come before the House—assuming that they do—I hope they will ensure that the ability to have three members is translated into having three, as opposed to having at least one person. There has recently been developing concern among the public as to what has happened in some local authorities whose audit systems simply do not seem to be strong enough to prevent capital investment going wrong. With that, I beg leave to withdraw the amendment.

Amendment 32 withdrawn.

Amendment 33 not moved.

Schedule 2: Mayors for combined county authority areas: further provisions about elections

Amendment 34

Moved by ***Baroness Scott of Bybrook***

34: Schedule 2, page 286, line 39, at end insert—

"(5A) The requirements in sub-paragraphs (4) and (5) may be satisfied by things done before the coming into force of this paragraph."

Member's explanatory statement

This amendment enables the consultation and recommendation requirements relating to regulations made under paragraph 12 of Schedule 2 to the Bill (conduct and questioning of elections for the return of mayors) to be met by steps taken before those provisions come into force on Royal Assent.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con): My Lords, in moving government Amendment 34, I shall also speak to Amendments 40 to 42, 44 to 50, 55 to 57, 290, 297 and 306.

Amendments 34 and 306 give those preparing for and running the proposed east Midlands CCA mayoral elections in May 2024 early clarity as to the rules. Amendment 306 commences Clause 25 and Schedule 2, which contain the relevant powers upon Royal Assent. Amendment 34 enables the statutory consultation with the Electoral Commission, and the commission's recommendations as to candidate expense limits, to occur before commencement in the east Midlands.

Amendment 50 amends Schedule 4, the current drafting of which provides only for mayoral combined authorities and mayoral combined county authorities to input on local skills improvement plans covering any of their area. However, the devolution framework in the levelling up White Paper states that this will be available to all CAs and CCAs and individual local authorities with a devolution deal. This amendment will allow all CAs and CCAs, including those without mayors, as well as local authorities with devolved adult education functions, to have their views on the relevant local skills improvement plans considered by the Secretary of State. These alterations will allow devolution deals in areas with devolved adult education functions to be fully implemented.

Amendments 55, 56, 57, 290 and 297 seek to amend Clauses 65 and 231. In its 24th report, the Delegated Powers and Regulatory Reform Committee recommended that any regulations regarding the membership of CAs and CCAs, as made through powers confirmed by Sections 104C and 107K of the Local Democracy, Economic Development and Construction Act 2009 or this Bill should be subject to the affirmative resolution procedure rather than the existing mixed resolution procedure, whereby only the initial statutory instruments made are subject to the affirmative process. I thank the committee for its work in relation to the powers in the Bill. These amendments accept that recommendation and will ensure that an appropriate level of scrutiny is achieved for regulations relating to membership of CAs and CCAs.

The remaining government amendments in this group are all consequential, amending the Equality Act 2010 and the Localism Act 2011 to apply provisions in these Acts to CCAs to allow the model to work in practice. Given their importance in allowing CCAs to operate as a local government institution, and to enable the first CCA mayoral election, I hope that noble Lords can support these amendments.

Baroness Pinnock (LD): My Lords, I begin, as I generally do, by reminding the House of my relevant interests as a councillor and a vice-president of the Local Government Association.

I wish particularly to speak to government Amendment 34. I was quite astonished when I read it; it brings to the Bill a new issue that has not been discussed previously either at Second Reading or in Committee. I was also astonished because the amendment attempts to bypass the independence of the Electoral Commission. The commission was established to improve trust in our electoral arrangements. That is its function, and we rely on it to provide its stamp of approval for the arrangements made for elections.

[Baroness Pinnock]

To use a strong word, this is quite a pernicious amendment because it attempts to bypass the independent consultation of the Electoral Commission. I will tell the House what it says. The Bill, in its Schedule 2, currently expects the Electoral Commission to be involved in setting the arrangements for mayoral elections. On page 286, paragraph 12(4) states that

"the Secretary of State must consult the Electoral Commission"

and in sub-paragraph (5) that

"the power of the Secretary of State to make regulations … is exercisable only on, and in accordance with, a recommendation of the Electoral Commission".

Government Amendment 34 states that the requirements in the two sub-paragraphs I have just quoted

"may be satisfied by things done before the coming into force of this paragraph".

In other words, the Government are going to bypass those requirements. That cannot be right.

1 pm

In our democracy, which is precious in this country, we must abide by independent views: the consideration of and consultation with the Electoral Commission, which is independent, to say that the arrangements made are proper and in line with our democratic principles. I am sad to say that government Amendment 34—maybe for reasons of practicality—has the effect of undermining the independence of the Electoral Commission. If it is bypassed once it will be bypassed twice, and if it is bypassed twice we will have lost an independent Electoral Commission that ensures that our electoral arrangements are trustworthy and fulfil the democratic requirements that we in this country set great store by.

I hope that the Minister will be able to explain why the Electoral Commission is not going to be allowed to have a say on these elections, and why the Government want to bypass it and appear to want to undermine its independence. This is serious stuff, and I look forward to what she has to say.

Baroness Taylor of Stevenage (Lab): My Lords, most of these amendments are technical and non-controversial, so I would love to have repeated the famous 10-word speech given by my noble friend Lady Hayman on Tuesday and simply agreed with them. However, we share with others on these Benches some concerns with government Amendment 34. The Bill currently allows the Secretary of State to make regulations for the conduct of mayoral elections, such as regulations relating to the registration of electors and election expenses. While we do not oppose this power and see it as an inevitable part of the process for mayoral elections, the Government should absolutely involve the Electoral Commission as part of this.

We therefore welcome that sub-paragraphs (4) and (5) state that before making these regulations

"the Secretary of State must consult the Electoral Commission".

It was widely assumed that such consultations would take place following Royal Assent, but Amendment 34 means that the consultation can begin prior to commencement. Can the Minister explain why this is necessary and confirm that it will not reduce the Electoral Commission's vital role in this process, as rightly set out by the noble Baroness, Lady Pinnock?

It would also be helpful if the Minister could make clear exactly how the Secretary of State intends to exercise these powers. I hope she will understand the concerns that the expedited process is being introduced to facilitate a certain mayoral election—I am not referring to the east Midlands. I look forward to hearing the Minister's response.

Baroness Scott of Bybrook (Con): My Lords, I thank the noble Baronesses for their input on these government amendments. These amendments, particularly Amendments 34 and 306, will ensure that those tasks we are planning for in running the May 2024 election for the east Midlands combined county authority mayor have real early clarity as to the rules for the conduct of the election.

The Government are absolutely clear about the role of the Electoral Commission. It has an important role in scrutinising all draft electoral legislation. It is therefore essential that it has sufficient time to undertake this role without causing unnecessary delay to the legislation itself. I will make it very clear: consultation with the Electoral Commission will still take place in full, and will still bind the regulation making. This amendment is just changing the timings for that.

Amendment 34 agreed.

Amendment 35 not moved.

Amendment 36

Moved by ***Baroness Hayman of Ullock***

36: After Clause 31, insert the following new Clause—

"Mayors and Police and Crime Commissioners: future relationships

(1) Within 30 days of this act receiving Royal Assent, a Minister of the Crown must publish a statement on plans for the future relationship between Mayors and Police and Crime Commissioners.

(2) The statement must include details on their distinct responsibilities and whether there are any plans to transfer functions between the two roles."

Member's explanatory statement

The amendment intends to ensure that the government provides clarity over the future role of Mayors and PCCs.

Baroness Hayman of Ullock (Lab): My Lords, my Amendment 36 is designed to provide clarity over the future relationships, roles and responsibilities of elected mayors and police and crime commissioners. The number of elected regional mayors has grown in recent years, and the Government clearly want to create more. At the same time, it also appears that the Bill's proposals will allow these mayors to take over, rather than run alongside, the role of PCCs. Is it the Government's intention to gradually phase out the elected PCCs?

This matters, of course, because policing has never been under more scrutiny and public confidence in some forces is, unfortunately, at rock bottom. Although PCCs do not have operational control over local forces, being watchdogs rather than police chiefs, the hiring and firing of chief constables is among their powers. Some mayors would quite like those powers for themselves, so may seek a mandate to take them when they are next up for election. We know that the next PCC and mayoral elections are due in 2024—next year—and

that there are already strong feelings in some areas as to who should have the job of holding the police to account.

Current legislation allows for a CCA mayor to apply to become the PCC, first, if the majority of their constituent councils agree and, secondly, following any consultation. The Bill removes those conditions, even the need to consult. Clearly, consultation should be essential for a change as big as this.

In Committee, the Minister said that

"councils do not deliver any of the services required by the PCC. That is the job of the local police. Therefore, there is no crossover in that way".—[*Official Report*, 13/3/23; col. 1143.]

There was concern about that statement at the time. As my noble friend Lady Taylor and others said, this is simply not the case. Councils look at anti-social behaviour; they look at domestic abuse work with their police colleagues. They have issues related to local area policing. Councils set priorities with local policing teams and deliver services jointly to address these priorities. District councils have a community safety plan, a committee and a chair, with constant interaction between the PCC's office and the councils, including the county council.

To say that there is no crossover between councils and PCCs is, we believe, a false argument to justify what is planned as a simple takeover of functions. I say this to make it clear that we support the amendments in this group in the name of my noble friend Lord Bach, Amendments 54 and 307A, which I understand are to be spoken to by my noble friend Lord Hunt of Kings Heath. I also assure my noble friend Lord Hunt that if he wishes to push his Amendment 53A to a vote, he will have our support.

Lord Hunt of Kings Heath (Lab): My Lords, I thank my noble friend Lady Hayman. My noble friend Lord Bach is addressing a memorial meeting in Leicestershire for the late chief constable with whom he worked very closely as police and crime commissioner.

To bring it back to my local patch, my concern is that Clause 59 means that the Conservative Mayor of the West Midlands Combined Authority can become the police and crime commissioner for the West Midlands Police whenever he wants, without consultation or an open debate about the consequences for the West Midlands. That is a local example of what my noble friend Lady Hayman has just described. I recognise that a mayor can become a police and crime commissioner if he or she has general support, as I think has happened in Manchester and West Yorkshire, but in the West Midlands that support has not been forthcoming. The local authorities did not agree to it.

We have got used to voting for a police and crime commissioner. As it happens, it has been for a Labour one each time—most recently in May 2021, on the very same day that we voted for a Conservative mayor. There is no suggestion that the two postholders cannot work well together. Both were elected. I do not understand what the argument for change is. What is the argument for essentially nullifying the result of an election if it does not seem to suit one party?

This is compounded by Amendment 307, which allows the West Midlands mayor to take on PCC powers on Royal Assent—this could happen in September. What is the rush? If the Government are determined to go ahead with this clause, surely it should be done in a seemly and orderly fashion?

Baroness Pinnock (LD): My Lords, this amendment is really important for democratic overview of policing in a combined authority area. As the noble Lord, Lord Hunt of Kings Heath, has said, West Yorkshire already has a mayor and a non-elected police and crime commissioner, because the arrangement for West Yorkshire—sadly, in my view—was that the two roles would be combined. The elected Mayor of West Yorkshire is therefore also responsible as police and crime commissioner. The consequence of combining those two roles has been that the Mayor of West Yorkshire was able to appoint a police and crime commissioner for West Yorkshire.

The whole concept of police and crime commissioners was that there would be democratic accountability for the oversight of policing in a police service area. In West Yorkshire and other places, I think including Manchester, that democratic accountability has disappeared because the mayors in those places—I live in West Yorkshire so I know the situation well—have appointed people they know as police and crime commissioner.

That is no reflection on or criticism of the job that that individual does, but it is a criticism of the lack of democratic accountability. If the oversight of police and crime in a very large area—2.5 million people—is given to an appointed person and the electorate cannot vote them out of office, there is something fundamentally wrong with the system. That is why Amendment 54 in the name of the noble Lord, Lord Bach, and introduced by the noble Lord, Lord Hunt, is so important. The Government have gone in the wrong direction on this one. If we are to have police and crime commissioners, they need to be elected, as they are everywhere else in the country.

1.15 pm

In introducing her amendment, the noble Baroness, Lady Hayman, described how local authorities have direct involvement in significant parts of policing in an area, in particular in domestic violence but also in all sorts of neighbourhood policing issues. An alcohol and drugs unit in a council can work closely with the addiction section of a police force. There are lots of issues on which the democratically accountable council has to work together, we hope, with a directly accountable and elected police commissioner. That accountability is being removed, so we support the noble Lord, Lord Hunt.

It is quite wrong to combine the two roles. We need to hold on as much as we can in this country to democratic accountability, because it is seeping away; the creation of bigger councils, meaning that they represent many more people than they used to, is removing elected representatives from the people they represent. That is not right and we must say so at every opportunity. I hope the Government will move away from that, because it is not right.

On the last point made by the noble Baroness, Lady Hayman, on Amendment 53A, we think the case has been made and will support it if she pushes it to a vote.

Baroness Scott of Bybrook (Con): My Lords, I thank the noble Baroness, Lady Hayman of Ullock, for outlining her rationale for tabling Amendment 36: to clarify the relationship between PCCs and mayors, and their respective roles and responsibilities. She asked if the Government want to phase out PCCs. There is no intention to do so. The intention is to allow mayors only in some areas to exercise PCC functions. Some areas will never have mayors who do so because only in coterminous areas can mayors take those functions.

The levelling up White Paper set out the Government's aspirations for—

Baroness Pinnock (LD): The noble Baroness said that you could have a combined police and crime commissioner and mayor only where there is coterminosity. If combined authorities are now able to expand, will that undo that requirement?

Baroness Scott of Bybrook (Con): No. I hate to bring up the West Midlands—I know the noble Lord opposite will be very pleased that I am—but the Mayor of the West Midlands has a choice: he can either agree to pursue the expansion to include Warwickshire, which has its own PCC, so he could no longer take the PCC role, or he can take the PCC role and therefore not Warwickshire. That is the reality of what we are doing. I hope I have explained that.

Lord Hunt of Kings Heath (Lab): I think that is right, because you cannot be PCC over two police forces; I fully understand that. What I would say is that if I were in Warwickshire, I would think, "At some point, they will merge West Midlands Police with Warwickshire". That is just an option for the future, but the Minister is absolutely right about the fact that the mayor cannot oversee two forces.

Baroness Scott of Bybrook (Con): I hope I have clarified that point. What happens in the future happens in the future; we are talking about this Bill, and the Bill does not change that at all. As I said, the levelling up White Paper set out the Government's aspiration for, where policing and combined authority boundaries align, combined authority mayors to take the lead on public safety and take on the role of the PCC—and to take steps to remove the barriers to more CA mayors taking on PCC functions.

In an area where a devolution deal is agreed and the policing and CA boundaries are not coterminous, the Government wish to encourage close co-operation between the combined authority mayor and the PCC. While it is important for the area to shape exactly what strong partnership looks like in practice, one way of achieving this would be to use the non-constituent or associate membership model being established via provisions in the Bill. This could allow the PCC a seat at the table and allow the combined authority to confer voting rights on the PCC on matters relevant to public safety. The information and clarifications sought by this amendment are, we believe, already available, and we do not agree that there is any need for a further statement.

I turn to Amendment 54. Clause 59 amends the existing provisions concerning the local consent requirements for the combined authority mayors to take on the functions of a PCC. This reflects that this transfer is merely a process whereby functions are transferred from one directly elected person to another, without any implications for the local authorities in the area. Clause 59 maintains the triple-lock model for conferring functions. That triple lock is that any transfer or conferral of powers needs local consent, the agreement of the Secretary of State and approval by Parliament.

The change which Clause 59 makes is that in future, local consent will be given simply by the mayor, who is democratically accountable across the whole area. The transfer of PCC functions to a mayor in no way diminishes the role of local government in community safety. The local authority's role in community safety partnerships remains the same and the police and crime panel will still exist, being responsible for scrutinising the mayor as the PCC in the same way it scrutinised the PCC.

A mayor having PCC functions will, we believe, be able more successfully to pursue their other ambitions and secure better overall outcomes for their community. A deputy mayor for policing and crime is appointed who can take on certain day-to-day responsibilities for this role, ensuring that the mayor can continue to focus on all their other priorities. The Government are clear that we expect mayors to discuss any proposal seeking a transfer of a PCC function with their combined authority in advance of submitting a request for such a transfer to government. This is in line with the existing expectation that mayors seek the views of the relevant PCC, whose consent is not required in legislation.

There is evidence of the considerable benefits that a mayor having PCC functions brings. For example, in Greater Manchester, following Greater Manchester Police's escalation to "Engage" by His Majesty's Inspectorate of Constabulary and Fire and Rescue Services, and the resignation of its former chief constable, the mayor appointed a new chief constable to develop and lead the force's transformation programme, the result of which has been to ensure that the force focuses on getting the basics right and improving outcomes for the region. Under the leadership of the chief constable and with oversight and support from the mayor, Greater Manchester Police is now responding faster to emergency calls, and the number of open investigations has halved since 2021, and the inspectorate released the force from "Engage" in October 2022 on the strength of the confidence in its improvement trajectory. The Mayor of Greater Manchester, Andy Burnham, was clear that he, as the PCC for Greater Manchester, was accountable if things did not improve and that he should be held to account at the ballot box.

And finally, my Lords—although I think that says it all—government Amendment 307 provides for early commencement of Clause 59, which would allow for the statutory requirements that enable a transfer of PCC functions to CA mayors to be undertaken from the date of Royal Assent. This will enable the timely implementation of secondary legislation required for PCC function transfers to mayors to take place in time for the May 2024 elections.

The Government's intention is to align as far as possible with the Gould principle relating to electoral management, which would suggest that any statutory instruments transferring PCC functions to mayors for May 2024 should be laid six months ahead of the elections in early November to provide notice to candidates, the electorate and the electoral administrations of any changes. It is for these reasons that the Government are unable to accept Amendment 307A proposed by the noble Lord, Lord Bach. It would time out any PCC transfers in time for mayoral combined authority elections in 2024 where there is a local desire for this.

I hope that noble Lords will feel able to accept the early commencement amendment for Clause 59 and that, following these explanations, the noble Baroness will feel able to withdraw her amendment.

Baroness Hayman of Ullock (Lab): My Lords, I thank the Minister for her response. I beg leave to withdraw my amendment.

Amendment 36 withdrawn.

Clause 40: Alternative mayoral titles

Amendment 37 not moved.

Clause 41: Alternative mayoral titles: further changes

Amendment 38 not moved.

Clause 42: Power to amend list of alternative titles

Amendment 39 not moved.

Clause 43: Proposal for new CCA

Amendment 40

Moved by ***Baroness Scott of Bybrook***

40: Clause 43, page 39, line 27, leave out subsection (9)

Member's explanatory statement

This amendment removes Clause 43(9) on the basis that it overlaps with the power in Clause 231(1)(c) for regulations under the Bill to make consequential etc provision.

Amendment 40 agreed.

Clause 44: Requirements in connection with establishment of CCA

Amendment 41

Moved by ***Baroness Scott of Bybrook***

41: Clause 44, page 40, line 23, leave out "Part" and insert "Chapter"

Member's explanatory statement

This amendment means that the definition of "local government area" in Clause 44(6) has effect for the purposes of Chapter 1 of Part 2 rather than Part 2 as a whole.

Amendment 41 agreed.

Clause 45: Proposal for changes to existing arrangements relating to CCA

Amendment 42

Moved by ***Baroness Scott of Bybrook***

42: Clause 45, page 41, line 28, leave out subsection (10)

Member's explanatory statement

This amendment removes Clause 45(10) on the basis that it overlaps with the power in Clause 231(1)(c) for regulations under the Bill to make consequential etc provision.

Amendment 42 agreed.

Clause 48: Boundaries of power under section 47

Amendment 43 not moved.

Schedule 4: Combined county authorities: consequential amendments

Amendments 44 to 50

Moved by ***Baroness Scott of Bybrook***

44: Schedule 4, page 296, line 6, leave out "(1)" and insert "(1F)"

Member's explanatory statement

This amendments corrects a cross-reference in the amendment to insert subsection (1G) into section 101 of the Local Government Act 1972.

45: Schedule 4, page 296, line 36, leave out sub-paragraph (3)

Member's explanatory statement

This amendment removes the amendment which inserts a reference to a combined county authority into section 146A(1ZB) of the Local Government Act 1972 on the basis that it is inconsistent with the amendment to insert new subsection (1ZEA) into section 146A.

46: Schedule 4, page 315, line 23, leave out "5" and insert "7ZB"

Member's explanatory statement

This amendment corrects a cross-reference in the amendment to insert paragraph 7ZD into Schedule A1 to the Planning and Compulsory Purchase Act 2004.

47: Schedule 4, page 316, line 27, leave out paragraph 158 and insert—

"158 In section 50 of the Children Act 2004 (intervention - England), after subsection (7) insert—

"(8) If any functions of a local authority in England which are specified in subsection (2) are exercisable by a combined county authority by virtue of section 16 of the Levelling-up and Regeneration Act 2023—

(a) a reference in this section to a local authority includes a reference to the combined county authority, and

(b) a reference in this section to functions specified in subsection (2) is, in relation to the combined county authority, to be read as a reference to those functions so far as exercisable by the combined county authority.""

Member's explanatory statement

This amendment replaces the current amendment to section 50 of the Children Act 2004 with an amendment that contains the correct cross-reference to Clause 16 of the Bill.

48: Schedule 4, page 318, leave out lines 20 to 22 and insert "or

(b) section 65Z5 (joint working and delegation arrangements)."

Member's explanatory statement

This amendment updates the amendment to section 75 of the National Health Service Act 2006 to reflect changes made elsewhere to that Act by the Health and Care Act 2022.

49: Schedule 4, page 323, line 36, at end insert—

"Equality Act 2010 (c. 15)

196A In Part 1 of Schedule 19 to the Equality Act 2010, under the heading "local government", after the entry for a combined authority insert—

"A combined county authority established under section 7(1) of the Levelling-up and Regeneration Act 2023."

Localism Act 2011 (c. 20)

196B In section 27(6) of the Localism Act 2011 (duty to promote and maintain high standards of conduct), after paragraph (n) insert—

"(na) a combined county authority established under section 7(1) of the Levelling-up and Regeneration Act 2023.""

Member's explanatory statement

This amendment makes a consequential amendment to the Equality Act 2010 and to the Localism Act 2011 relating to the provisions about combined county authorities in Chapter 1 of Part 2 of the Bill.

50: Schedule 4, page 327, line 30, leave out paragraph 218 and insert—

"218 In section 1(7) (views of relevant authority in relation to local skills improvement plan), for paragraph (a), and the "or" at the end of that paragraph, substitute—

"(a) a combined authority within the meaning of Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (see section 103 of that Act),

(aa) a CCA within the meaning of Chapter 1 of Part 2 of the Levelling-up and Regeneration Act 2023 (combined county authorities) (see section 7 of that Act),

(ab) a local authority that has functions conferred on it by regulations made under section 16(1) of the Cities and Local Government Devolution Act 2016 (power to transfer etc public authority functions to certain local authorities), or"."

Member's explanatory statement

This amendment substitutes the amendment made to section 1(7) of the Skills and Post-16 Education Act 2022 by paragraph 218 of Schedule 4 to the Bill to make provision ensuring that the Secretary of State must be satisfied that due consideration has been given to the views of all combined authorities and CCAs (and not just mayoral combined authorities and CCAs), and local authorities which have functions devolved to them under section 16 of the Cities and Local Government Devolution Act 2016 before approving a local skills improvement plan for an area that covers any of their area.

Amendments 44 to 50 agreed.

Clause 57: Consent to changes to combined authority's area

Amendments 51 to 53 not moved.

Amendment 53A

Moved by ***Lord Hunt of Kings Heath***

53A: Clause 57, page 49, line 15, at end insert—

"(3AB) An order under this section, laid within nine months of the Levelling-up and Regeneration Act 2023 being passed, which adds a local government area to an existing area of a mayoral combined authority may be made only if—

(a) the relevant council in relation to the local government area consents,

(b) the mayor for the area of the combined authority consents,

(c) the combined authority consents,

(d) the statement of a consultation with the residents of the local government area asking their views on the order has been laid before each House of Parliament, and

(e) the Secretary of State has consulted, and had regard to advice provided by, the Boundary Commission for England."

Member's explanatory statement

This adds additional requirements which must be satisfied before local government areas are added to an existing Combined Authority within nine months of Royal Assent. This follows reports that areas may be added to the West Midlands Combined Authority prior to the 2024 Mayoral Election.

1.28 pm

Division on Amendment 53A

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Amendment 53A agreed.

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1.39 pm

Clause 59: Consent to conferral of police and crime commissioner functions on mayor

Amendment 54 not moved.

Clause 65: Regulations applying to combined authorities

Amendments 55 to 57

Moved by ***Baroness Scott of Bybrook***

55: Clause 65, page 63, leave out lines 4 and 5

Member's explanatory statement

This amendment is consequential on the amendment to Clause 65 in the Minister's name which provides for any regulations made under section 104C(1) or (4) of the Local Democracy, Economic Development and Construction Act 2009 (as inserted by Clause 61 of the Bill) to be subject to the affirmative resolution procedure.

56: Clause 65, page 63, line 6, after "section" insert "104C(1), 104C(4), or"

Member's explanatory statement

This amendment has the effect that any regulations made under section 104C(1) or (4) of the Local Democracy, Economic Development and Construction Act 2009 (as inserted by Clause 61 of the Bill) are subject to the affirmative resolution procedure.

57: Clause 65, page 63, line 11, leave out "subsequent regulations under section 104C(1) or (4), or"

Member's explanatory statement

This amendment is consequential on the amendment to Clause 65 in the Minister's name which provides for any regulations made under section 104C(1) or (4) of the Local Democracy, Economic Development and Construction Act 2009 (as inserted by Clause 61 of the Bill) to be subject to the affirmative resolution procedure.

Amendments 55 to 57 agreed.

Amendment 58

Moved by ***Baroness McIntosh of Pickering***

58: After Clause 70, insert the following new Clause—

"Local authorities to be allowed to meet virtually

(1) A reference in any enactment to a meeting of a local authority is not limited to a meeting of persons all of whom, or any of whom, are present in the same place and any reference to a "place" where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.

(2) For the purposes of any such enactment, a member of a local authority (a "member in remote attendance") attends the meeting at any time if all of the conditions in subsection (3) are satisfied.

(3) Those conditions are that the member in remote attendance is able at that time—

(a) to hear, and where practicable see, and be heard and, where practicable, seen by the other members in attendance,

(b) to hear, and where practicable see, and be heard and, where practicable, seen by any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and

(c) to be heard and, where practicable, seen by any other members of the public attending the meeting.

(4) In this section any reference to a member, or a member of the public, attending a meeting includes that person attending by remote access.

(5) The provision made in this section applies notwithstanding any prohibition or other restriction contained in the standing orders or any other rules of the authority governing the meeting and any such prohibition or restriction has no effect.

(6) A local authority may make other standing orders and any other rules of the authority governing the meeting about remote attendance at meetings of that authority, which may include provision for—

(a) voting,

(b) member and public access to documents, and

(c) remote access of public and press to a local authority meeting to enable them to attend or participate in that meeting by electronic means, including by telephone conference, video conference, live webcasts, and live interactive streaming."

Member's explanatory statement

This new Clause would enable local authorities to meet virtually. It is based on regulation 5 of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, made under section 78 of the Coronavirus Act 2020.

Baroness McIntosh of Pickering (Con): My Lords, I will speak to and move Amendment 58 in my name and those of the noble Baronesses, Lady Pinnock and Lady Hayman of Ullock; I thank them warmly for their support for it.

The legal basis relies on the previous Regulation 5 of the regulations made under Section 78 of the Coronavirus Act 2020. During the pandemic, it was generally felt that remote meetings of councils worked very effectively, and the change has been a source of great disappointment and increasing irritation to local councils, to those elected to represent their constituents at that level and to professional clerks. I received some powerful briefings from the two organisations especially concerned: the LGA and the SLCC, which represents the professionals who man the councils.

I listened carefully to my noble friend Lord Howe's response in Committee. He clearly stated:

"The Government are of the view that physical attendance is important for delivering good governance and democratic accountability".—[*Official Report*, 15/3/23; col. 1392.]

He went on to say that it permits the public to "view proceedings remotely" but that he was prepared—indeed, he promised—to keep the matter "under review". I urge my noble friend to use this opportunity to review the regulations, to reintroduce them, to revise the law and to agree to Amendment 58.

The lifting of the Covid regulations that permitted councils to meet virtually has been a retrograde and undemocratic measure. The Government removed councillors' right to democratically represent their constituents when they are temporarily unable to attend or, as I found on many occasions while trying to nurse a constituency in North Yorkshire, when they find that they are physically unable to attend meetings given the climate, particularly in the bad-weather months from December through to March, owing to snow or ice on the roads. They may also have care responsibilities towards an older or a younger generation and they could fulfil those duties if they were able to attend the meetings remotely. They may also suffer from a moment of temporary infirmity that prevents them attending.

In Committee, I mentioned distances to travel. The 57 miles from probably the furthest point in my former constituency, Filey, to the county town of Northallerton would take at least an hour and a quarter on a good day, so you are looking at something approaching a three-hour round trip. In the summer months, you have additional traffic, which delays matters, and I mentioned the inclement weather in the winter months.

These regulations worked perfectly well during Covid; all I am asking my noble friend and the Government to agree to do is revert to them. The particular weakness in my noble friend's argument is that the House of Lords permits committees to meet virtually, so we have a situation where, regrettably, there appears to be one rule for those of us who are fortunate enough to serve on a House of Lords committee and another for those who are elected to councils, who are unable to meet remotely and virtually. I believe that that is unfair and undemocratic.

I received some powerful briefings in this regard; I will briefly share them with noble Lords. Following an extensive survey, the Local Government Association recently published a report showing that 95% of those responding from principal councils indicated that they wanted to reintroduce virtual meeting technology as an option at statutory meetings. They have suffered an impact on the recruitment and retention of councillors,

and barriers have been created since the removal of these regulations permitting virtual attendance, particularly where there are work and caring commitments or health and disability issues.

1.45 pm

I had not appreciated that, in certain circumstances, some committees, particularly licensing ones—I declare an interest in that I chaired both the original committee looking into an inquiry on the Licensing Act 2003 and the subsequent follow-up inquiry—are currently convened under legislation other than the Local Government Act, such as for licensing hearings, schools admission appeals panels and regional flood and coastal committees. These have been able to continue to use virtual meeting options to hold their meetings. In the view of the LGA, this has created a two-tier system, where councils can reap the benefits of virtual attendance at some meetings but not others. This demonstrates that councils already deliver accountability and good governance in hybrid meetings.

The Government confirmed in Committee that they are prepared to keep the matter under review. I believe that there is no time like the present to review it. You cannot have a situation where some council meetings can be virtual but others cannot and where we meet virtually in committees in our own House. There are very good reasons for hybrid or remote meetings in certain circumstances; the flexibility that was enjoyed during the Covid pandemic should apply where councils choose to use it.

With those few introductory remarks, I beg to move.

Baroness Seccombe (Con): My Lords, I disagree wholeheartedly with my noble friend. In the lockdown period, I thought it was awful when people had to vote remotely and were charged with being on a beach somewhere. I believe that, in politics, we need each other; we need debate and discussion and to hear other points of view. I believe that doing that in person is right for a healthy democracy.

Baroness Pinnock (LD): My Lords, I make clear that this amendment, to which I have added my name, is about local authorities having the option to make some of their meetings virtual or hybrid. It is not about going back to having all meetings held virtually; it is about having the option to do so where that makes sense in local circumstances.

During the Covid pandemic, we learned that virtual meetings could be conducted and worked well, in accordance with local authority conduct of meetings. There is no problem with the legality of how they were conducted. I accept the noble Baroness's point about how we need to be together in a democracy but that is difficult on some occasions, and some people will be excluded if we do not provide an option for local authorities to make meetings accessible by making them virtual.

For example, people with disabilities find it more difficult to travel to a meeting in person—and then there are those with caring responsibilities and those with demanding work schedules. In many parts of the country now, people have long commutes to work. That option of a virtual meeting means that they can fulfil the responsibilities of being a local elected councillor as well as being in work. We do not want to revert to a situation in which local councils attract only people who are retired, because they are the only ones who have time or are able to go to meetings. We want as broad a selection as we can of people from our communities to become councillors, including the young and old, people with disabilities and people with caring responsibilities. We need them on our councils so that those voices are heard. That is one reason why the option—and it is an option—of holding meetings virtually is important.

The second is the huge size of some of the councils that the Government have now created. The noble Baroness, Lady McIntosh, used the example of North Yorkshire, which is now a unitary council. People know where Selby is now, so I will use the example of Selby, which is in the south of the southern tip of North Yorkshire. To travel to a meeting in Northallerton, where the county headquarters is, means covering a distance of about 53 miles, which would take probably an hour and a half—so it is a three-hour round trip to go to a council meeting. Think of how many people that will exclude: those who cannot drive would not be able to get there, as there are no buses and no trains, or very few. This is not like London. In the winter North Yorkshire has snow, which makes it even more difficult to get physically to meetings, which is when a virtual option makes really good sense. There is also the example of this House, which has managed perfectly well holding its Select Committees virtually. If we can do it here, surely local authorities should be allowed to do it.

My last point is that this amendment is to a part of the Bill on devolution. If devolution means anything, it means that local authorities and local councils should be able to make the decisions that matter to them—to have the flexibility to make decisions appropriate to their situation. We know that the Local Government Association, as the noble Baroness, Lady McIntosh, said, is fully supportive of this amendment and this approach. We will obviously listen very carefully to the response by the noble Earl, Lord Howe, but if the noble Baroness is not satisfied with the response and wishes to test the opinion of the House, we on these Benches, for the reasons I have given, will fully support her.

Baroness Hayman of Ullock (Lab): My Lords, one thing that we have heard in the debates in Committee and today is that councillors are a vital part of our local democracy; they represent the needs of their residents and they work to improve outcomes for their local communities. But it is also important that any good decision-making is done by people who reflect their local communities and bring a range of experience, backgrounds and insight. As we have heard, by law, councillors have to attend meetings in person at the moment. We have also heard how important Zoom and Teams were for councils to continue to meet and the public to continue to take part during lockdown and the pandemic. It also brought people together and involved more people than previously in many cases.

We debated at length in Committee the benefits of continuing to allow virtual attendance at council meetings. The noble Baroness, Lady McIntosh of Pickering,

[Baroness Hayman of Ullock]
thoroughly introduced that when she spoke to her amendment, and I am very happy to support her in what she is trying to do. Unfortunately, the Government withdrew this ability. We know that it supports a large range of people, as the noble Baroness laid out: the parents of young children, carers, disabled people and people with long-term illnesses. It enables them to come forward and represent their communities and encourages wider public participation, which is surely a good thing.

When we think about access to participation, why would the Government not lower barriers to that participation? Why can we not have virtual participation in council meetings as an option? We think that councils should have the flexibility to decide for themselves whether this is a useful tool that they can use. The noble Baroness, Lady McIntosh, also mentioned, as have others, the option that we have in this House for virtual participation by those with disabilities and health issues. As others have asked, why at the very least can we not have the same dispensation for local councils that we have here in this House? The Government need to look at this again. If the noble Baroness wishes to test the opinion of the House, we will support her.

Earl Howe (Con): My Lords, this amendment seeks to replicate the situation created by the time-limited regulations that the Government made during the pandemic using powers in the Coronavirus Act 2020 that gave local authorities the flexibility to meet remotely or in hybrid form. Those regulations expired on 7 May 2021, and since that date all councils have reverted to in-person meetings. The Covid regulations, if I may refer to them in that way, were welcomed when they were issued for very good reasons, but they were nevertheless reflective of a unique moment in time, when a response to exceptional circumstances was needed. That moment has now passed, and the Government are firmly of the view that democracy must continue to be conducted face to face, as it has been for the last two years and for most of history prior to the pandemic.

Noble Lords have argued with some force as to the benefits of meeting remotely, and I completely understand why those arguments should be put forward. In the end, however, they are arguments based on one thing alone—expediency. With great respect, those arguments miss the point.

Lord Rooker (Lab): That is only from the perspective of the councillors. What about the public? They have the right to listen in to the council meetings without travelling, and they are losing that right. Of course, it was left to Mrs Thatcher to get the council meetings open anyway, with her Private Member's Bill. This is an opportunity for the public not to participate but at least to be part of it and to listen without the need to travel.

Earl Howe (Con): My Lords, I greatly respect the noble Lord, but it is Report and I hope he will understand that point—but I am also coming on to the very point that he has raised. He is absolutely right about the expectations of the public.

I suggest that the point at the heart of this issue lies in one of the core principles of local democracy, which is that citizens are able to attend council meetings in person and to interact in person with their local representatives. To allow for a mechanism that denies citizens the ability to do this, ostensibly on grounds of convenience, is in fact to allow for a dilution of good governance and hence a dilution of democracy in its fullest sense.

Councils take decisions that can fundamentally alter the lives of people. Where an elected authority comes together to impose such changes, it should be prepared to meet in the presence of those whose lives are affected. I shall exaggerate a little to make a point, and I do not mean to cause offence to anyone—

Baroness Hayman of Ullock (Lab): We have talked about having the same as here. We all meet together, but other people can come in.

2 pm

Earl Howe (Con): With great respect, I hope that the noble Baroness will hear me out. I will address that point.

I was going to exaggerate a little to make a point; I will do so. I do not mean to cause offence to anybody, but someone whose life is directly affected by a planning decision, let us imagine, would not wish to find that the councillors concerned had taken the decision from their respective living rooms with test match coverage playing in the background. The same principle applies to the interaction between local councillors. If a council meets either in committee or in full session—especially if it meets to take decisions—councillors are entitled to expect that they will be able to deal with their fellow councillors face to face, debating with them, challenging them and taking decisions in the same room.

Baroness McIntosh of Pickering (Con): Will my noble friend give way?

Earl Howe (Con): No, I will not give way, I am sorry. To put that another way, anyone who has chaired a remote online meeting—whether in a local council or any other context—will know that the internet, accessible as it is to most of us, is nevertheless, by its very nature, a barrier between people. To chair a council meeting online is therefore to experience the considerable responsibility of trying to ensure that debate is both reactive and interactive, that the right balance between different arguments is achieved and that decisions are taken in the light of arguments that have been presented to those assembled in the most effective fashion.

I do not for a minute deny that the ability to conduct virtual meetings during Covid served a useful purpose—but we were making do. We have only to think of how things were in this Chamber during that time. Did we really think that a succession of prepared speeches transmitted from noble Lords' kitchens or armchairs constituted the kind of effective debating that we experience in Committee or on Report for a Bill?

Lord Reid of Cardowan (Lab): I am trying to follow the Minister's logic, but I am afraid that my intellectual capacity prevents me doing so. I therefore ask a simple question. By all logic of his argument, there should be no hybrid Select Committee meetings in this House, yet there are. Does he think that that therefore devalues those Select Committee meetings?

Earl Howe (Con): That point is very similar to one made by the noble Baroness, Lady Hayman, and my noble friend about an option of virtual attendance in case of illness or disability—as we have in this Chamber—but that option is on an exceptional basis. With great respect, that is a far cry from the terms of the amendment that my noble friend has tabled. We know what effective debating looks like: it is when we can stand in this Chamber and look each other in the eye—as at present—as active participants.

No limits are placed on authorities broadcasting their meetings online, and I would encourage them to do so to reach as wide an audience as possible. However, I hope that my noble friend Lady McIntosh and other noble Lords who have aligned themselves with her position will understand why I am coming at this from the point of view of a principle: that it is our duty to safeguard democracy as fully as we can and not to short-change it. I hope therefore that my noble friend will not feel compelled to oppose that principle by dividing the House today.

Baroness McIntosh of Pickering (Con): My Lords, I regret that I have had no reassurance whatever, and my noble friend did not even repeat the assurance we got that the Government would keep this matter under review. I find it unacceptable that, under legislation other than the Local Government Act, licensing hearings, school admission panels and regional flood and coastal committees can meet and take decisions that affect people's lives. The noble Lord, Lord Rooker, made the very valid point: why should it be acceptable for the public to access physical meetings remotely but not those who are temporarily or permanently unable to travel because they cannot get access to public transport? I also find it unacceptable that we have established a very good principle that we can meet remotely in Select Committees of this House but we are not extending the same right to democratically elected councils. I would like to test the opinion of the House.

2.05 pm

Division on Amendment 58

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Amendment 58 agreed.

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2.16 pm

Amendment 59

Moved by ***Baroness Thornhill***

59: After Clause 70, insert the following new Clause—

"Dependents carers allowance for parish councillors

(1) The Local Authorities (Members' Allowances) (England) Regulations 2003 are amended as follows.

(2) In regulation 7 (dependants' carers' allowance), in paragraph (2), at end insert "or a parish council"."

Member's explanatory statement

This new Clause would add parish councils to the list of local authorities in England which may have a scheme to provide for the payment to members of that authority. The allowance would be in respect of such expenses of arranging for the care of their children or dependants as are necessarily incurred in the performance of their duties such as attending meetings.

Baroness Thornhill (LD): My Lords, I rise to move this amendment, to which I have added my name, on behalf of my noble friend Lady Scott of Needham Market, who cannot be in the House today. It gives me great pleasure to speak to this important amendment, given the support it received in Committee. Because it was debated well then and we do not intend to test the opinion of the House, I will be brief-ish.

This is another amendment that echoes what was said in the previous amendment, because it seeks to address a fundamental inequality: in short, town and parish councils do not currently have the power to award a carer's allowance to their councillors, even if they want to and can afford to, yet every other councillor at every other level of local government can. This amendment asks simply for the decision to rest with the councils themselves—these are their councillors, their choice and their budget.

In my time in local government it was apparent, and still is, that all the parties struggle to get high-calibre people standing for council and, more importantly, to encourage them to stand again. The drop-off rates are quite alarming. There are lots of credible statistics on this; I will not drag things out by citing them, but they are there.

We all know that the LGA, the Fawcett Society, the Electoral Commission and others have worked to improve the diversity of elected representatives, so we know how important it is that councillors reflect the community in which they live. That is very pertinent to town and parish councillors, who really are at the sharp end: they are the closest to those whom they represent and meet them in the pub or the park or at the school gates. I believe that the laws governing the current situation reflect the attitudes of decades ago—the village do-gooder stepping up and speaking for the humble folk, as a community service and a bit of volunteer work—so town and parish councils do not have the power to give their councillors a carer's

allowance. Surely we do not see the role that way now. Times have changed, and roles and responsibilities have changed.

I argue that those closest to people can best say what the impacts of big decisions are on the lives of those whom they represent. We should be removing barriers and obstacles that prevent people stepping up and serving their communities, and encouraging all councils to embrace the diversity within their communities.

Personally, I would not be standing here today if I had not been able to pay a babysitter when I became a councillor. I just could not have afforded it, and there will be other women in that position. It is, sadly, still true today that the majority of carers are still women.

I know that in Committee, Ministers said that they were concerned about the cost burden this would place on local council budgets. Yet, when asked what the costs would be, they did not know. We do know that since the dependent carer's allowance was introduced in Wales, there has been no impact on the budgets of community and town councils. We know from the information gathered by the National Association of Local Councils that many councils would meet these modest additional costs out of existing budgets. Surely it should be a local matter if councils want to increase their tiny precepts to invest in attracting, retaining and supporting councillors? That is local democracy in action.

Finally, in 2019, Weymouth Town Council made a proposal to the Government under the Sustainable Communities Act to extend the carer's allowance to parish councillors. It is still waiting for a decision, despite the rules stating that it should have received one from the Secretary of State within six months. Could the Minister agree at least to chase this up, please?

Parish and town councils are out of step with the rest of local government. This important amendment in the name of my noble friend Lady Scott of Needham Market presents the perfect opportunity to right this wrong, to help level up local democracy and to give those councillors with caring responsibilities just a little much-needed help to perform their important civic role. The Bill is in part about handing powers down from the Government to the many and various forms of local government—real devolution. It is right to do so, and proud to do so. Why not devolve further down to parish councils and give them this right? I hope the Minister will give this real consideration. I beg to move.

Baroness Taylor of Stevenage (Lab): My Lords, our network of over 10,000 community, neighbourhood, parish and town councils provides that invaluable first tier of services that people care about, notice and see every day. This is because they impact so very close to their front doors. During discussions on the Bill, it has been a feature to hear Members across your Lordships' House championing these councils, which illustrates their vibrant contribution to our democracy. Amendments in this group are no exception.

We welcome Amendment 59 in the names of the noble Baronesses, Lady Scott and Lady Thornhill, which would make provision for parish councils to be able to meet carers' expenses. I welcome the comments of the noble Baroness, Lady Thornhill, about taking down barriers and increasing diversity at all levels of council activity. Like the noble Baroness, Lady Thornhill, if I had not been able to have carer's allowance for babysitting fees for my daughter, who was just eight when I first joined the council, I would not be here today. These are very important steps that we can take.

I also know one councillor in Stevenage whose husband is profoundly disabled following a stroke. She benefits from carer's allowance. Another councillor has a severely learning-disabled son. The fees for looking after him are over £80 an hour; a contribution to that from the council means that she can participate in council activity. The input these women provide on issues of disability, as well as many other issues—and their long experience—is incredibly helpful to our council. That should be extended to parish councils too.

It is vital that we do all we can to encourage a wide range of people to engage in the democratic process at all levels of government. It is often the responsibility of caring that deters people. I look forward to hearing the Minister's response, and I hope that the Government will keep this under close consideration.

Baroness Burt of Solihull (LD): My Lords, I wish, of course, to support my noble friends Lady Thornhill and Lady Scott of Needham Market on Amendment 59. But I wish to address my remarks to government Amendment 60, which I do not support and urge others to do the same. Along with other consequential amendments, this seeks to disapply Part I of the Local Government Act 1894 from affecting any parish council powers conferred by other enactments. Section 8(1)(i) of the 1894 Act prevents parish councils funding works relating to the church or held for an ecclesiastical charity. This would enable such funding under the Local Government Act 1972. In simple language, as I read it, it enables parish councils to pay money for the upkeep of churches.

I want to be clear about what I am objecting to. I am not opposed to churches—quite the opposite, actually. I want to uphold freedom of religion or belief for all. I also do not want to see church buildings become run down. I do not deny or undermine the good work of churches and other faith and belief groups around the country. Instead, I want to make sure that, where public money is being spent, it is done in a considered and appropriate manner that does not discriminate against groups that do not have churches. Funding buildings owned and operated by churches would, in my view, be an inappropriate use of taxpayers' money, given the extreme wealth of most churches, especially the Church of England. The Church of England is the largest private landowner in the UK and has a £10.1 billion investment fund. Its assets were valued in 2016 at £23 billion, since when the fund has grown by £3.4 billion. I would be grateful if the Minister could say whether she knows why these dilapidated buildings cannot be restored by the church itself.

We know that part of the problem is declining congregations. The British Social Attitudes survey shows not only that the majority of the population is

[Baroness Burt of Solihull]
non-religious but that less than 1% of those aged between 18 and 24 say they are Anglican. But that is not the full story—not by a long chalk. My own local parish church recently embarked on a project to put the church back at the heart of the community by opening a shop and café in the church premises itself. It is closed to the public for only one hour a week for Sunday worship. Villagers got together to raise the money and make the whole thing work. My husband, himself a dedicated humanist, chipped in financially and helped with the construction, and I have aspirations in the Recess to learn how to become a barista.

Where church buildings are in decline, an alternative approach, adopted by some countries such as the Netherlands, is that where a religious group declines in number to the point that it can no longer maintain a building, the state then agrees to maintain the building on the proviso that it takes ownership. That enables such buildings to become community spaces equally open to all, rather than controlled by some.

Many would oppose the idea of giving taxpayers' money to an organisation that discriminates against people of no faith. About a third of schools in England and Wales are faith schools and people of other faiths—and, worse, of no faith—might see their children or grandchildren denied a school place because of preferential admission policies. There is also discrimination against gay people who want to marry in a church, yet the Church of England continues to deny them. These discriminatory practices continue, quite legally—for the moment—so as a taxpayer, until churches become more inclusive, I for one do not think that they should receive public money to restore their buildings. They knew a thing or two in 1894. Please keep things as they are.

2.30 pm

Lord Cashman (Lab): My Lords, it is a pleasure to follow the noble Baroness, Lady Burt of Solihull. I will not repeat the arguments that she has laid out before your Lordships.

I have not spoken before, so I apologise to your Lordships, but I have been motivated to do so by what I believe is potentially an unfair subsidy to one of the wealthiest landowners in the country, the Church of England, with, as the noble Baroness, Lady Burt, outlined, assets that are currently valued at £23 billion. I also believe it is discriminatory. If we are going to do this for churches, can we equally support mosques, the rather beautiful Buddhist temples around the country, the amazing synagogues and, equally, the Quaker meeting rooms? What applies to one should apply throughout.

If, as we have heard and has been accounted through the recent census, church attendance has diminished severely and churches are not being used, the parishes should be conserved as local hubs and the churches handed over to local authorities. There is a really good model that I know personally: St Matthias, the oldest church in Poplar, east London. It was deconsecrated and handed over to the local community. I am a trustee. Neighbours in Poplar and others have turned it into a thriving hub that serves those of all religions and none. That is a really good model, and it is why I am speaking against government Amendment 60. This is a potentially unfair subsidy that discriminates, and there should be no place for that in a Bill that is about levelling up.

Baroness Scott of Bybrook (Con): My Lords, Amendment 59, in the name of the noble Baroness, Lady Scott of Needham Market, and introduced by the noble Baroness, Lady Thornhill, seeks to allow parish councils to pay allowances for dependants' care costs to their councillors. I am grateful to the noble Baroness for raising this important issue again, and I recognise the admirable aim of her amendment.

It is important that local communities are properly represented by their local authorities at all levels, including parish councils. Giving parish councils the option of paying these allowances, though, would create an expectation that they would be available to all their members, and that would place an unknown, unfunded and potentially significant burden on the modest finances of parish councils. It is not the policy of the Government to place such burdens on local authorities at any level, and we believe it would be irresponsible to do so.

We do not have, and have not been provided with, any evidence of the scale of the demand for care allowances by parish councillors, nor of the likely costs to their councils, and we cannot be confident that the benefits here would outweigh the costs to the local taxpayer. We have a responsibility to ensure that we take action that could increase council tax further, and put extra pressures on residents, only where absolutely necessary. But I am happy to have further discussions with any noble Lords or noble Baronesses and to consider any evidence that they may have at a later date. However, until we understand this issue better, the Government cannot support the amendment.

Weymouth was brought up. Weymouth council came to the Government, as was said, but there was insufficient information for Ministers to make an informed and substantive decision at the time. Our concerns about the impact on parish councils' finances remain, and we will respond shortly to Weymouth town council's proposal.

Moving to government Amendments 60 and 308, we have listened carefully to the concerns that were expressed in Committee that some parish councils believe that they are prohibited from providing funding to churches —to answer the noble Lord, Lord Cashman—and other religious buildings. I pay tribute to the right reverend Prelate the Bishop of Bristol, my noble friend Lord Cormack and the noble Lord, Lord Best, for bringing this issue to the House's attention. I am pleased to say that the Government wish to move this amendment to clarify that there is no such prohibition.

We have heard that stakeholders' confusion comes from the Local Government Act 1894. That Act set out a clear separation of powers between the newly created civil parishes, which exercised secular functions, and what are now parochial church councils, which exercise ecclesiastical functions. In setting out the scope of the powers conferred on civil parishes, the Act gave parish councils powers over

"parish property, not being property related to the affairs of the church or being held for an ecclesiastical charity".

Some stakeholders appear to see this wording as a general prohibition which prevents parish councils doing anything in relation to church or religious property, even under their powers in other legislation. The Government did not agree with this interpretation. Their view was that this wording simply sets out what is and is not a parish property for the purposes of the powers of the 1894 Act. This is supported by the *Hansard* record for 1 February 1894, when the then right reverend Prelate the Bishop of London explained why he had proposed including this wording by way of amendment.

The Government do not think that there is any general or specific provision in the 1894 Act which prohibits parish councils funding the maintenance and upkeep of churches and other religious buildings. Therefore, this amendment does not seek to make any substantive changes to the existing legal provision. Instead, it clarifies that the 1894 Act does not affect the powers, duties or liabilities of parish councils in England under any other legislation. This will give councils the comfort that, even if they disagree with the Government's interpretation of the 1894 Act, it cannot prohibit them using their other powers to fund repairs or improvements to local places of worship, if they choose to do so. Government Amendment 308 makes provision for this new clause to come into force two months after Royal Assent.

I listened very carefully to the noble Baroness, Lady Burt of Solihull, and the noble Lord, Lord Cashman. In reality, this is going to allow something that in many areas is happening already, and we have heard examples of that. In churches and other religious buildings across this country many community activities are taking place, from coffee mornings to luncheon clubs, knitting circles and toddler groups. I think it is correct that we make it very clear as a Government that parish and town councils are legally able to support those sorts of activities and can help such facilities along a bit—often the only community facility is the church or another religious building—if the parish council or the town council agrees that it is the right thing to do on behalf of that community.

Baroness Thornhill (LD): I thank the Minister for her considered response. However, it saddens me that the Government feel that this is not a decision that a parish council can make for itself. I will be blunt and say that it is stunningly patronising. It has been dressed up as an overwhelming regard for a parish council's budget when, on a daily and weekly basis, the Government take decisions that increase council tax. That is another debate for another day. We are just asking for parish councils to have the power to make their own decisions.

What evidence do the Government feel would be acceptable? Lots of parish councillors might say, "We can't get people unless we do this", or, "Actually, there's only one or two that ever need this but they're really good people and we'd like to be able to give it to them". Can I reverse that and ask the Government what evidence they feel would be needed? The bottom line is this: why can parish councils not make the decision for themselves? I beg leave to withdraw my amendment.

Amendment 59 withdrawn.

Amendment 60

Moved by ***Baroness Scott of Bybrook***

60: After Clause 78, insert the following new Clause—

"Powers of parish councils

After section 19 of the Local Government Act 1894 (provisions as to small parishes), insert—

"19A Powers under other enactments

(1) Nothing in this Part affects any powers, duties or liabilities conferred on a parish council by or under any other enactment (whenever passed or made).

(2) This section does not apply in relation to community councils (see section 179(4) of the Local Government Act 1972).""

Member's explanatory statement

This amendment inserts a new section into the Local Government Act 1894 to clarify that the powers conferred on parish councils under Part 1 of that Act do not affect any powers, duties or liabilities of parish councils conferred by or under any other enactment (whenever passed or made).

Amendment 60 agreed.

2.41 pm

Consideration on Report adjourned until not before 3.50 pm

National Health Service (Performers Lists) (England) (Amendment) Regulations 2023

Motion to Regret

2.42 pm

Moved by ***Lord Hunt of Kings Heath***

That this House regrets the lack of an impact assessment and a full consultation exercise being undertaken in relation to the changes made through the National Health Service (Performers Lists) (England) (Amendment) Regulations 2023 to the National Health Service (Performers Lists) (England) Regulations 2013, given the wide-ranging effect of those regulations on NHS primary care dentistry in England.

Lord Hunt of Kings Heath (Lab): My Lords, it is a great pleasure once again to draw your Lordships' attention to dentistry matters in relation to this statutory instrument. I declare an interest as president of the British Fluoridation Society and related bodies.

These regulations are important in themselves—more important than first meets the eye. They come within the context of wider issues around the problems that patients are having getting access to dentistry under the NHS. In our previous debate, a few weeks ago, I referred to the GP patient survey last year, in which 12.9% of those surveyed said that they had failed to get an NHS dental appointment in the last two years. If you count only those people who attempted to get an NHS appointment the first time, 24% failed to get an appointment in the last two years.

In the last few weeks, I have had urgent representation from the Shildon and Dene Valley branch of the Labour Party about the impact that the closure of BUPA Dental Care in Shildon and Bishop Auckland

[Lord Hunt of Kings Heath]
has had on providing NHS dental services. As the branch says, this is an area where only a minority of people can afford expensive private dental care. The closures will lead to an overall decline in dental health and to increases in related health problems. This is happening up and down the country.

When we debated this in June, the Minister referred to the July 2022 package of dental system improvements, which was aimed partly at improving patient information and at changes to the contract to provide some incentives. However, that is not sufficient to tackle the chronic access problems that patients have.

The announcement in the NHS workforce plan that the Government intend to

"Expand dentistry training places by 40%"

is, of course, very welcome indeed. However, the Minister will need to find some capital funds to help dentist schools expand, and I know the Minister will not be surprised if I mention that the

"tie-in period to encourage dentists to spend a minimum proportion of their time delivering NHS care"

has caused some eyebrows to be raised—although I actually sympathise with that proposition.

2.45 pm

However, it is a pity that the Secretary of State asserted that

"two thirds of dentists do not go on to do NHS work".—[*Official Report*, Commons, 3/7/23; col. 580.]

I have now seen acknowledgment by officials in the Minister's department that a mistake was made. Two figures have mistakenly been reversed: around two thirds of dentists perform NHS work. I think an apology is owed to the profession for this.

I come to the regulations. The national performers list is a list of approved GPs, opticians and dentists who satisfy a range of criteria necessary for working in NHS primary care in England. Accessible online, the national performers list allows members of the public to check the status of those performers. The amendments to the National Health Service (Performers Lists) (England) Regulations 2013 include three main changes: first, adjustments to simplify intra-UK cross-border working of medical, dental and ophthalmic practitioners; secondly, amendments to simplify the application process for overseas dentists who have not completed dental foundation training; and, thirdly, postgraduate dental deans will no longer have responsibility to sign off dentists who have gone through a supported period of training called the performers list validation by experience, or PLVE.

Let me say at once that actions to remove bureaucratic barriers and ease workforce pressures by improving the process for overseas qualified dentists to join the NHS workforce are of course welcome, and there is no doubt that the current process is bureaucratic and inflexible. But there are a number of real concerns. First is the lack of consultation. I have talked to the British Dental Association, which was not consulted before the changes were made and had expected a formal consultation to take place before implementation of any changes. The reason given by the noble Lord's department is the

"strong public interest in introducing this legislation swiftly"

to reduce unnecessary barriers and to ease workforce pressures. I do not dispute that parts of the process need improving, nor do I argue against the view that this should be done as quickly as possible, but I think that the BDA and others in the profession are entitled to be consulted on it.

Then there is the absence of an impact assessment. The Explanatory Memorandum states:

"A full Impact Assessment has not been prepared for this instrument … no, or no significant, impact on"

the private, voluntary or public sector is foreseen. That is arguable. I suggest that the impact on the dental sector could be significant: first, with the loss of a safety net for practitioners and patients; and then with a significant increase in workload for a diminishing group of NHS England dental advisers. The latter point carries the risk that either a backlog of applicants will develop while waiting for assessment or assessments will be watered down to ensure a fast journey through the process, which of course has implications for patient safety.

On patient safety, we know that many working within dental postgraduate education are concerned about the approach adopted and are uncertain about whether the structure now in place is sufficiently robust to offer the public protections required to ensure all dentists will be fit to join the performers list. There is a wider impact, too. There is now an exemption from the need to complete foundation training

"where a dental practitioner is judged, through an assessment by the Board … to have knowledge and experience equivalent to that of a dental practitioner who has satisfactorily completed foundation training".

This is intended to address the issue of intra-UK cross-border transfers and the process for overseas applicants, but it would be fair to reflect the BDA's concern as to whether, say, a new graduate from a UK or English dental school would also be able to argue that they could be assessed via this equivalence route rather than going through foundation training.

Since the BDA first expressed concern about the lack of consultation on the changes mentioned, a consultation with additional changes to the performers list regulations was received on 19 June, with a deadline of 3 July. That is two weeks. That is not fair to the BDA or other dental organisations.

Obviously, overall, I can see the argument for these regulations, but it is really unfair and discourteous to the profession that some kind of proper consultation was not gone through. There are also a number of issues where an impact assessment would have been absolutely appropriate. Having said that, I hope we can have a short but informed debate. I beg to move.

Lord Allan of Hallam (LD): My Lords, we welcome the debate as an opportunity to look at some of the challenges around the number of GPs, dentists, optometrists and other primary care workers that we have available to us. I welcome the fact that the noble Lord, Lord Hunt, has given us that opportunity.

At the core of the statutory instrument, it seems sensible that we should accept registration from other parts of the United Kingdom where people are on the performers list in another part of the devolved system. To many of us, it is perhaps a surprise that it is not

already the case that people on a list in one part of the UK are not automatically passported through to other parts. I am interested to hear from the Minister whether he has any information on how much of an issue this has been and whether there is quantitative or qualitative data around whether we have had significant numbers of practitioners in these fields finding that they had a problem as they moved from London to Edinburgh, Cardiff or Belfast and found that there was a barrier to them restarting their work as a professional because of this performers list issue. Any information he has on that would be helpful.

It would also be very interesting to know whether discussions are ongoing about reciprocal arrangements—whether the constituent parts of the United Kingdom will now plan to do something similar when a doctor on the performers list in England enters their system and whether there will be a similar arrangement for automatic entry to the performers list, subject to later checks, rather than having to apply from scratch.

My second point is to reflect on the user experience of trying to navigate the system, either as a practitioner who wants to work and is thinking about how to get on the performers list or as a member of the public. As the noble Lord, Lord Hunt, pointed out, part of the value—or intended value—of the performers list is that a member of the public can see if somebody who they are going to for treatment has been authorised effectively to offer treatment in their area. We want this to be very simple for everybody concerned, but it is quite confusing at the moment.

As part of my research for this debate, I went to a popular search engine and typed in "NHS performers list". What I got back was a web page from digital.nhs.uk. The website had .uk at the end, so I assumed it was for the UK; the page was called "National Performers List", and I assumed "national" meant it was for the United Kingdom. I clicked on that and then, on the next page, it told me that it is only for England. Nowhere in this does it explain to me that there are other performers lists for other parts of the United Kingdom. Nowhere am I given a link to say, "If you are interested in Scotland, go here". The whole experience is a real confusion between the United Kingdom and England—I speak as a supporter of the devolved settlement, but if we are going to do it, let us do it properly. It seems to me that there is no excuse for not making it clear, given that the .uk bit of the service is not for the UK, that this relates to England and, if you do not want that, here is how to get to the other parts of the United Kingdom.

I note in passing that, if you have a problem with this system, the email address is for the Exeter helpdesk. As I think I have referred to before, I spent many happy years working on the Exeter system—the system for registering GPs—and I am pleased to see it still lives on in the helpdesk for people trying to find out about the performers list.

Equally, if you then come back and search for "performers list" for Wales, Scotland and Northern Ireland, you get a real mishmash of results. There is no consistency. Each of the constituent parts of the United Kingdom has some kind of thing that explains the performers list to you; none of them will link to the others or give you consistent information. In fact, the only place you can find it, if you are really lucky, is by stumbling across the website of the National Association of Sessional GPs, which I assume is intended for GPs looking for locum work. It has a really good explainer with links to all of them, but it seems to me that the Government should be at least as good as the National Association of Sessional GPs at signposting people to the right bit of the performers list.

The other significant area of the statutory instrument which is worth looking at is the question of the inclusion of overseas dentists, which I know the Minister is very familiar with and spends time on. Again, the Explanatory Memorandum tells us that this will improve the situation but is not very forthcoming on how. It tells us that one form of EU exemption will be removed and another system put in place. It would be helpful if the Minister could flesh out a bit about why he is confident—I assume—that it will be a genuine improvement. It would be interesting to hear a bit more detail about how he thinks it will be an improvement and how the new assessment process will help.

I have a final couple of questions. One foundational question, which comes back to the point about the impact assessment, is whether anybody has looked at how much value this performers list system actually adds over and above the existing professional registration systems. I do not think we should just take things as read. We have done it like this previously, where we have people registering with a professional body which requires passing all kinds of tests to get on to the register as a practising dentist or doctor within the United Kingdom—then we have this performers list system. I am genuinely interested in whether we have ever thought to ask whether it is useful to have the performers list layer on top of the general registration layer; if so, how useful it is; and whether the cost of having these two layers of registration is justified. It seems to me that we should always ask those questions; otherwise, we will have bureaucracy on top of bureaucracy.

Finally, I cannot miss this opportunity: I noticed today that in the Prime Minister's announcement about the funding settlement, which is a welcome increase for various public sector professionals, he said that the Government are going to fund it in part by raising visa fee rates. That is critical. Here we are debating a measure which will make registration on the performers list as an overseas professional a little easier—and we all know that we need a continued stream of overseas professionals in this area. However good we are at training people, we are not going to get there for a while. I am interested in and hopeful about the Minister's views on whether we are not giving with one hand and taking back with the other. We are making registration a bit easier, but we are going to make it a lot more expensive for people to get here in the first place. As I say, I cannot miss the opportunity to flag that there may be some inconsistency in government policy across that piece.

Baroness Merron (Lab): My Lords, I think this debate is all about whether these regulations will do the job they are intended to do. As my noble friend Lord Hunt said at the outset, it is difficult to see whether that is the case in the absence of, for example, an impact assessment. I start by thanking my noble

[Baroness Merron]
friend for again bringing this issue before the House. NHS dentistry is so important to people's health and well-being in this country, and it has deteriorated, sadly, over a number of years. This is not an issue with the regulations themselves but whether they assist primary care in the way that it is said they are going to and that we all seek to do.

In terms of the background, there is no doubt—we all know this from our own experience and that of the people we know—that finding an NHS dental practice in the UK which will accept new adult patients for treatment under the health service is something of a rarity. Only one in 10 practices is offering that at present. That situation remains unsustainable.

3 pm

I would be interested to know what assessment the Minister has made of the package of dental system improvements that were introduced from July 2022. As my noble friend Lord Hunt said, despite the intention, the provisions within them have never been sufficient to tackle the chronic access problems that patients face, as I have just described.

It is good that there is an expansion of dentistry training places in the NHS workforce plan, for which we have called for some time, but the workforce plan also proposes

"a tie-in period to encourage dentists to spend a minimum proportion of their time delivering NHS care".

How does that square with the comment from the British Dental Association, which said last month that

"over half of dentists responding to our surveys say they have cut their NHS commitment since lockdown—and many more state their intention to reduce—or further reduce—their NHS work"?

It would be helpful to your Lordships' House if the Minister could explain how the tie-in period in the workforce plan squares with the reality.

As we have heard, the regulations amend the 2013 regulations by introducing two main changes. First, they make the necessary legislative amendments to simplify intra-UK cross-border working of medical, dental and ophthalmic practitioners. This will apply to the relevant performers lists. It would be helpful to hear from the Minister, for each of those categories, how many more practitioners we can expect to see as a result of this simplification.

Secondly, the amending regulations simplify the application process for overseas dentists who have not completed dental foundation training. As we know, this applies only to dental practitioners. The regulations revoke the exemptions from the requirement to undertake dental foundation training in Regulation 34(4) of the 2013 regulations and provide two exemptions in their place. The first exemption is where a dental practitioner is judged through an assessment by the board to have knowledge and experience equivalent to that of a dental practitioner who has satisfactorily completed foundation training. The second exemption is where a dental practitioner is participating in an induction programme determined by the board. In the assessment by the board, how will knowledge and experience be balanced against each other? Will a lack of one be countered by more of the other, or are these defined minimum levels?

The regulations also make minor amendments to the 2013 regulations to make it clear that dental practitioners are required to satisfactorily complete foundation training to be included on the dental performers list rather than just completing foundation training. That rather begs the question: does that mean that practitioners were previously completing foundation training unsatisfactorily yet were included on the dental performers list? Perhaps the Minister could enlighten us on that point.

As we have heard, the regulations are said to be a central part of the Government's dental plan, which is intended, they say, to provide urgent action to improve access to NHS dental services and to meet what are acknowledged to be the unprecedented levels of demand we currently see. Can we have some indication about what impact the Government expect these changes to have on access and on meeting levels of demand? My noble friend Lord Hunt rightly highlighted that the absence of an impact assessment makes it impossible for your Lordships' House—or anybody else, indeed—to make that judgment. Without an impact assessment, how on earth does one assess the impact? That is the question for the Minister: in its absence, how will he and his department assess the impact of these regulations?

Lastly, I want to pick up the other point in the Motion on the lack of consultation. We know that no formal consultation was carried out and we have heard the department's reasons: it believes that there is strong public interest in introducing this legislation swiftly. We are all in favour of swift action, for sure, but having no formal consultation surely sets a very bad precedent. Does the Minister agree? After all, there is so much urgency in our healthcare system and we are also requiring urgent action. Are we to expect that this will continue to be a way of dealing with things?

Could the Government have dealt with this in a different way, by acting more quickly and then carrying out a consultation to see whether any changes were required? Given that there is no statutory review clause, how will the impact of the changes be reviewed? As my noble friend Lord Hunt said, while we agree that there were significant delays and barriers within the PLVE system, they had existed over many years, and this does not justify enacting them without consultation. Can the Minister explain how it is justifiable that consultation did not take place with the British Dental Association and other relevant organisations? Does that not potentially undermine the effectiveness of these regulations?

The department says that it has engaged with NHS England over the past year to understand the changes needed to improve the operation of the performers list. It would be helpful to hear more about what this engagement involved and what concerns were raised. I understand that informal consultation was apparently undertaken with the devolved Governments and regulatory bodies on wider reforms to the performers list. In the light of those, the department says that it considers the changes to be uncontroversial. Were any concerns raised, or absolutely none?

I am sure that the Minister has got the message that while there is no issue with the actual changes, there are many issues with the way in which the regulations

have been dealt with. There are great concerns that they may not deliver the impact that the Government seek and, indeed, we all seek—that is, improvement to access to dental care.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): I thank noble Lords for their contributions and the noble Lord, Lord Hunt, for bringing this topic before us today. As noble Lords know, I have an interest in this case in that my wife is an overseas dentist, which means I can trump the website search by the noble Lord, Lord Allan, and say that I have filled in these forms myself.

Overall, I am glad that there seem to be shared goals in that we all want to increase the supply base of doctors, dentists and opticians—in this case, the focus is particularly on dentists. Clearly, we all want to maintain high standards and remove unnecessary red tape. That is what we are trying to do here.

I do not think anyone is going to pretend that this alone will be a massive thing. I liken it to Team GB cycling—noble Lords have probably heard me use that example before—where you are looking at 1% and 2% changes and sensible things at the margin that will accumulate over time. The noble Baroness, Lady Merron, asked about some of the July 2022 changes. The noble Lord, Lord Hunt, mentioned the changes to the UDAs and those earlier changes. Each of those on its own will not make a massive change, but the accumulation of all those things will begin to have an impact. That is why it is so difficult to do an impact analysis on any one individual measure, because we are trying to combine all those things to make it into the right space for people to want to do this.

I think we all agree that it seems strange not to trust that the Scottish, Welsh or Northern Ireland NHS has gone through a process good enough that we would automatically use it. It is sensible that we trust them and their standards but have a case to verify afterwards if we need to. I do not know whether it will be reciprocal. I argue that we should do it regardless, because it has to be to our benefit that we are as inviting as possible. I would not be surprised if they follow suit. Funnily enough, if they do not, it might be to our advantage through a narrow NHS England lens and making sure that we have the easiest approach to work and practice.

The other main point is where I really have a personal interest. I hope it will add some colour to the thinking behind this, albeit with a sample size of one. Please take this as an anecdotal experience rather than as a massive data analysis. I have seen that you go through a very thorough GDC process. That is something that I filled out in the context of my wife when we did all this. She had practised and had her own practice in Madrid for about 15 years and was very experienced. She went through a very thorough GDC process to make sure that she was eligible to practise here. She then practised in Manchester and Liverpool at some very high-end private clinics.

We then decided to move to Surrey. She saw that there were a number of jobs on offer that wanted people with private registration, but that it would be helpful if they had NHS as well, because a number of clinics have a hybrid model whereby they will offer both NHS and private treatment. She went down that process and I was involved in it. Eventually, she came to the conclusion that she was doing a hell of a lot of hard work. There was a two-year process and all sorts of courses she needed to take—it was very much a checklist of things to do—so she thought, "Do I really need to do this? I have plenty of private practice anyway". In the end, she concluded that there was no point. I grant that this is a sample size of one, but I think we can all see that, if someone has been practising for many years to a very high level and can continue doing that, but suddenly there is a load of red tape in the way of becoming an NHS dentist, eventually they would say that it is not worth it. That is what this approach is all about.

It is also about accepting that you need judgment; you cannot put down any hard and fast rules, as was questioned, because every case is going to be different. Part of the problem now is that it is almost a tick-box exercise when looking at their experience. That is what this is designed to do. If a dentist has worked in the private sector or overseas for 10 to 15 years and can show evidence of the different types of treatment they have done, you can be pretty confident—by all means, meet them and talk to them—that they can do that at the NHS level. Those are the judgment calls that they make, and that is where we are coming from.

3.15 pm

It is very hard to do an impact statement; to some extent that is what the analysis was on. Obviously there is not a threshold to do it; as I think noble Lords know, the threshold is £35 million in one year or £50 million over a couple of years. It does not reach that threshold, it is hard to do, we want to get on and do it, and if you do not have to do an impact assessment and you are not sure how much you can judge it, how useful is it? The point was made that we need to review that, which is fair. Clearly, there needs to be a process to see how these things are working or not. However, that is best looked at further down the line.

As I look at my notes, I must say very clearly right now that we should apologise for any error made with regard to numbers. I am happy to do that in the event of that circumstance.

On the consultation, it is a similar thing; there was not a requirement to formally consult on this. An informal process was taken through on it all. It was generally thought to be a sensible process, which is why the decision was made to push ahead. There can always be arguments one way or another on whether you should consult, but clearly one will be guided by what the law and the rules are, and, if it is below the threshold, there is no requirement, and that is where the judgment call was made in this case.

I will ask the team to look into the consumer approach, so to speak. I am not surprised, having some experience myself, by the confusion around all of it. All that should be part of this simplification, with everything designed so that there is a simple front door, as it were, and everyone understands how to do it.

[Lord Markham]

On the question of whether putting up the charges for foreign people coming in will be a disincentive, what we are really talking about is people who are already here. Remember that there is a two-step process: you have to pass the GDC set of rules and then you have to try to get on to the performers list. If you pass the GDC set of rules, you will then be practising in the UK and will already have paid for your visa. We are talking about the segment of the dentist population who are already doing that, and who are thinking about expanding into the NHS. That is why it is not a disincentive in that case.

The noble Baroness, Lady Merron, mentioned the decrease in work since lockdown. Noble Lords will recall a previous debate when I said that some dental practices are not doing the level of NHS units that they have been contracted to do. That is why we have now changed it to say that if they do not do that, we will take them away from them—it is use it, perform it, or do not have it. You can definitely see some examples—I will not say how widespread they are—of dentists using the fact that they have the underpinning of an NHS contract for UDAs to then they go out and get private sector work off the back of that, and then only fulfil the units if they have not managed to get the private sector work. We are trying to say that, if they are running the system that way and not fulfilling their end of the contract, we will take it away from them. There is a real incentive to provide it or lose it.

At the end of the day, we need more dentists who can fulfil NHS contracts as well. That is what this is all about: doing it at the margins so you get the hybrid model that, I hope, works.

I have tried to answer as many of the questions as I can. At this point, as ever, I will send a detailed reply after this which will clear up anything else. I am glad that noble Lords generally understand what we are trying to do here and agree with the direction of travel on it all. I hope that we can agree to move forward on this.

Lord Hunt of Kings Heath (Lab): I am very grateful to the Minister, and to my noble friend and the noble Lord, Lord Allan, for their comments on the statutory instrument. As ever, I think we have had a very interesting debate.

It was interesting to hear the insights of the noble Lord, Lord Allan, on the website, which I have just tried out. It is easy to use and, as long as you know the name of the dentist, it finds it just like that. If you do not, I am not sure where you are. The other thing is its peculiar language. Why "performer"? That is a very odd name to use for a serious dental professional. What does "status: included" mean? Yes, they are included on the register, but I suggest it needs refreshing, and surely more information can be given. In the GMC, of which I am a member of the board, we too are looking at our registration details for the public. There is an appetite for the public to know more about the professionals—some of them specialise in certain techniques. Picking up the question of Scotland, Wales and Northern Ireland as a whole, I suggest that this is worth having a look at.

The noble Lord, Lord Allan, made a very good point on fees. I understand the issue about unfunded pay increases—we as Ministers have all had to go through some of those tensions—but that seems to be spiting yourself when, let us be honest, we are absolutely desperate for overseas recruitment. Using GMC figures, of the 20,000 or so extra registrants last year, 39% were homegrown, 11% came from the EEA and 51% came from overseas. We need to be very careful about dissuading overseas professionals from coming in, particularly when we know that the expansion in the workforce will take, I do not know, maybe a decade before we see its fruition—certainly with doctors and dentists—on the front line.

I thought my noble friend Lady Merron's point about the cutback in NHS work post Covid was very interesting. Access issues are getting really worrying in some parts of the country where people do not have the wherewithal to go private. Somehow or other, we desperately need to do something more about access.

On the issue of impact assessment and consultation, I thank the Minister for the apologies about the tie-in statement, but there comes a time for a reset of relationships with the BDA. When the announcement about the extra training places was made, that might have been the time when a short consultation—although I think two weeks is too short—was tactically a good thing to do. Relationships between the department and the BDA are always full of interest—they are sometimes warm; they are sometimes not so great—but you cannot ignore the representative of the profession.

I accept the point the Minister made about sensible incremental changes. Small changes put together can lead to improvements. That is why the SI is welcome overall, as are the measures that we saw and debated recently.

Ultimately, we also need Governments to show more interest in dentistry. They need to understand that the access issues are very serious indeed and that we should not regard dentistry as a kind of marginal addition to the core issue of NHS services. I am sure the Minister will agree that dentists are an essential part of health promotion and healthcare provision in this country. Having said that, I am very grateful and beg leave to withdraw my Motion.

Motion withdrawn.

Hong Kong

Statement

3.25 pm

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, with the leave of the House, I shall now repeat a Statement made by my right honourable friend the Minister for Indo-Pacific in the other place on the situation on Hong Kong. The Statement is as follows:

"Last week, I came to this House to speak on the egregious arrest warrants and bounties issued by the Hong Kong police against eight individuals for exercising their right to freedom of expression. Some of these individuals reside in the UK. As I said at the time, this is completely unacceptable.

Since then, the authorities in Hong Kong have taken further steps to silence and intimidate these individuals by targeting their families and alleged associates who remain in Hong Kong. Last week, we saw five individuals arrested by the Hong Kong police. On Monday, family members of one of the named individuals, Nathan Law, were detained for questioning by Hong Kong police and have since been released. This is a worrying development. This is a campaign of fear intended to intimidate and silence those who seek to speak out peacefully against oppression and the erosion of rights and freedoms.

This is a choice the Hong Kong authorities have taken, no doubt emboldened by the Chinese Government's imposition of the national security law. It will only further damage Hong Kong's international reputation and standing. The United Kingdom declared the national security law a breach of the Sino-British joint declaration and brought together the international community to condemn the imposition.

In response, we introduced the bespoke visa route for British overseas nationals. Hong Kongers have since made the United Kingdom their home and are making a valuable contribution to our communities. We suspended the UK-Hong Kong extradition treaty immediately and indefinitely. We also announced the extension to Hong Kong of the arms embargo applied to mainland China since 1989, as updated in 1998.

I would like to make it exceptionally clear that we will not tolerate attempts by either the Chinese or the Hong Kong authorities to intimidate and silence any individuals in the United Kingdom. Any attempt by any foreign power to intimidate, harass or harm individuals or communities in the United Kingdom will not be tolerated. This is an insidious threat to our democracy and fundamental human rights.

On 3 July, the Foreign Secretary called on the Hong Kong authorities to end their targeting of those who stand up for freedom and democracy. They have not heeded this call. At the instruction of the Foreign Secretary, a senior official will be formally protesting recent actions by the Hong Kong authorities with the Chinese ambassador.

We will make and have consistently made clear our objections to the Beijing-imposed national security law to Chinese Government and will continue to do so. It has stifled opposition and criminalised dissent. The authorities claim that this has brought stability to Hong Kong, but what it has really done is stifle the unique character of the city and diminish its pluralism and vibrancy. If this course of action continues, it will alienate business and the city's international financial status will be at risk.

The Hong Kong and Chinese authorities repeatedly condemn comments in this House and by the Government as interfering in their internal affairs. As a co-signatory to the joint declaration, we have the right to make clear our position, and we will not be deterred from doing so.

The national security law should never have been imposed in 2020 and should be removed. The independent UN Human Rights Council concurred with this in its report on Hong Kong last year, as have many of our partners in the international community. No one living in the United Kingdom should feel inhibited by that law in any way. We will always stand up for the right of freedom of expression.

This is not what the United Kingdom wants for Hong Kong's future. Hong Kong's way of life, prosperity and stability rely on respect for fundamental freedoms, an independent judiciary and the rule of law. We will continue to stand up for the people of Hong Kong, to call out violations of their rights and freedoms, and to hold China to its international obligations. I commend this Statement to the House."

3.31 pm

Lord Collins of Highbury (Lab): My Lords, I thank the Minister for repeating that Statement. Of course, by targeting the families of brave activists, authorities in Hong Kong have taken another deeply sinister step towards the erosion of the rights promised to the people of Hong Kong in 1997. The liberties and freedoms of the handover agreement are being flagrantly disregarded, and the system is increasingly under direct control of the Chinese Communist Party. We are now witnessing the full force of the national security law and the realisation of the fears of the Hong Kongers.

Our response must be firmly to stand by the people of Hong Kong and co-ordinate the international response. Given that the United Kingdom has recently assumed the presidency of the Security Council, can the Minister say what steps and plans the Government will make to arrange a debate at the UN over the next month on this important topic?

We must also continue to ensure that no part of the United Kingdom is complicit in this repression. Therefore, can the Minister finally issue formal guidance to ensure that there is no confusion as to the position of British judges in Hong Kong?

Unfortunately, those who have sought safety in the United Kingdom are not only worried about their families back in Hong Kong but are now threatened here too. The pursuit and enforcement of bounties by a foreign Government in the United Kingdom is clearly illegal. The Government must prosecute any individual who seeks to take up these bounties.

There are also new, serious questions about the status of extradition treaties with Hong Kong and the People's Republic of China and proposals for establishing a safe corridor for pro-democracy activists overseas. I listened to the Minister in the other place; she did not really answer Iain Duncan Smith's question on this issue and the steps taken for safe passage. She referred to exchanges with Five Eyes and European partners regarding cancellation of extradition treaties with Hong Kong and the PRC, but without really giving any firm details. She mentioned, however, that only two EU countries have not cancelled the treaties. Can the Minister give us a little more detail this afternoon about the full extent of our discussions, not just with EU partners but on a broader scale, about how we ensure that such extradition treaties are not used to attack these human rights defenders from Hong Kong when they travel?

Given how unique this situation is, Ministers clearly need to work across departments to protect those who feel at risk. Will the Minister outline what steps are being taken across departments to safeguard Hong

[Lord Collins of Highbury]
Kongers here in the United Kingdom? Do the Government have any plans to give further resources to the Home Office and the Department for Levelling Up to protect Hong Kong communities in the United Kingdom from any attempts by Beijing and the Chinese Communist Party to target them?

The Minister will also know that the Intelligence and Security Committee released its latest report today, which found that the Government's response to the threat from China has been completely inadequate. He will recall that I asked in last Thursday's debate in Grand Committee why the Government will not commit to publishing a stand-alone China strategy. The need to shift security policy from crisis management to long-term strategy is vital. We need to challenge, compete and co-operate where we can, as I emphasised last week. Will the Minister outline the steps that the Government will now take to follow through on the recommendations of the ISC's report? Surely he agrees that, in the light of that report and with recent events in Hong Kong, it is now time for a new and comprehensive strategy towards China.

The Minister repeatedly states—I agree with him—that sanctions are effective only when taken in concert with others. If we work in isolation, they will never be effective. So why, as Iain Duncan Smith asked in the other place, are we so out of step with our allies in sanctioning those key individuals responsible for human rights abuses in Hong Kong, particularly Hong Kong Chief Executive John Lee? I know that the Minister will repeat the usual mantra that the Government do not publicly respond on future designations but will he assure the House that we will work in concert with our allies to ensure that those responsible for these human rights abuses suffer the full action of the international community?

Lord Purvis of Tweed (LD): My Lords, the Government will find no disagreement at all with the Statement from these Benches. We also support the remarks of the noble Lord, Lord Collins.

It is clearly unacceptable that the United Kingdom and its politicians should, in effect, be threatened by another country's embassy over hosting individuals who will now, as John Lee indicated, be fearful for the remainder of their lives unless they return to Hong Kong. There is reportedly a £101,000 bounty on them. This is clearly unacceptable behaviour. What advice are the Government providing to individuals being threatened in such a way on accessing information and support from British police? We must be prepared for Chinese authorities to go beyond pure threats as, regrettably, we have seen physical action in this country, which is equally unacceptable.

I have three questions for the Minister. The first relates to our economic relationship with China. Clearly, our diplomatic relations are in a complex and sensitive state, but there seems to be very little action from the Government to see those concerns reflected in our trading and investment relationship via Hong Kong. Eight years ago, Prime Minister David Cameron indicated that he wanted Britain to be the preferred partner of China in the West and signed a number of preferential market access agreements with China. I have asked repeatedly which of those agreements we have alerted the Chinese authorities that we will pause on the basis of human rights concerns. The Government have indicated that none will be.

This is compounded by the Trade Minister from this House, the noble Lord, Lord Johnson, actively engaging with the Hong Kong authorities at the same time as they are announcing bounties on people in this country. My second question to the Minister is this: which Minister authorises Trade Ministers to visit Hong Kong? Is it the Prime Minister personally or the Secretary of State for the Department for Business and Trade? I do not know whether that department or the FCDO is in charge of our relations with China.

Thirdly, the Independent Commission for Aid Impact recently updated its review on UK aid to China. Many people will be alarmed to hear that, under the latest set of figures, it found that the United Kingdom has given £48 million in overseas development assistance to China—a country on whose goods we are dependent by a trade deficit of more than £40 billion. The commission found a concerning lack of transparency on a government strategy to reduce development assistance to China. I hope that the Minister can respond positively to the ICAI report and indicate when that figure will reduce to zero. I think that British taxpayers will be concerned when aid is being cut to those starving in the Horn of Africa but we are providing nearly £50 million to China.

My final point relates to the point made by the noble Lord, Lord Collins, with which I agree, on the need for a longer-term strategy. The Minister is well aware that a report of the International Relations and Defence Select Committee of this House found a "strategic void" from this Government on our relations with China. It said:

> "There is no clear sense of what the current Government's strategy towards China is, or what values and interests it is trying to uphold in the UK-China relationship".

It is now absolutely necessary for us to have a clear long-term strategy on our relations with China—diplomatic, economic and cultural. I hope that the Minister will respond positively and say that this will now be the Government's approach.

Lord Ahmad of Wimbledon (Con): I thank both noble Lords for their support for the Statement. I accept that there are questions about our future relationship with China that we will continue to ask but, equally, I thank noble Lords and their respective parties for their support for the actions we are taking. It is right not just that we are concerned for the BNOs who have arrived to make their homes here in the United Kingdom and who are contributing so much but that we recognise that there remains a responsibility to every Hong Konger under an agreement signed by both China and the United Kingdom. In that respect, we remain focused and vigilant to ensure that those issues continue to be raised directly with China.

I will go through some of the specific questions, first on strategy and the way forward. The noble Lords, Lord Collins and Lord Purvis, both raised this in their own ways; the noble Lord, Lord Collins, repeated something that he asked me last week and the noble Lord, Lord Purvis, asked specifically about our future role.

First, I saw a summary of the Intelligence and Security Committee report on China earlier today. As noble Lords are aware, my right honourable friend the Prime Minister issued a Written Statement on this report, which I quote:

"The Integrated Review 2021 articulated the United Kingdom's robust stance towards China. It highlighted China's increasing international assertiveness and identified it as the biggest state-based comprehensive threat to the United Kingdom's economic security. It placed greater emphasis on defending our interests and values while preserving the potential for cooperation on shared interests. The Integrated Review Refresh 2023 went further still, responding to subsequent changes in the strategic environment. In the IRR, the government recognised China as a systemic challenge with implications for almost every area of government policy".

In the interests of time, I refer noble Lords to the Written Statement from my right honourable friend the Prime Minister, which clearly highlights the challenges posed and, importantly, the steps that we have taken in response to those challenges.

Noble Lords will recognise that much of the information for that report was received before 2021. A number of the issues and recommendations that it raises are addressed by some of the actions that we have taken, for example passing the National Security Act in 2023 and the foreign interference offence created by that Act. Through the Home Office, we have also set up the Defending Democracy Taskforce, overseen by the Security Minister. I refer noble Lords to that Statement; I am sure that further questions will arise on that issue.

The noble Lord, Lord Purvis, asked about visits and trade. I am sure all noble Lords recognise that China is a country that has a role to play on the world stage. I will shortly be going to the UN Security Council, and we have worked with China on a number of key priorities, including the issues and challenges of climate change, the security situation on various conflicts and, importantly, the issues of resolutions around the world. We recognise the role of China as a P5 UN Security Council member. We saw also that, on various health challenges that have been faced over time, China has played a role in assisting the global community.

However, that should not allow us to—and we do not—shy away from calling out China for its egregious abuse of human rights. I am sure noble Lords recognise the work of this Government on this important issue, and the leadership we have shown on the Human Rights Council, particularly on the issue of Uighur Muslims in Xinjiang.

The noble Lord, Lord Purvis, referred to my noble friend Lord Johnson's visit to Hong Kong to discuss business ties that link the UK and Hong Kong. It is right that we continue to strengthen Hong Kong, not just because of our historic ties but because the whole basis of the agreement we signed was to ensure the continuing prosperity of Hong Kongers. I fully accept that it must be tied to ensuring that the rights of Hong Kongers are also protected. He spoke up quite directly against the erosion of rights and freedoms in Hong Kong and, I assure noble Lords, also raised key concerns that are affecting communities, such as pension access, in meetings with government officials.

The noble Lord, Lord Collins, asked about a UN debate specifically. I am sure that this will be something which I will reflect on, but I can certainly say at this time that there are no current plans to raise a particular UN Security Council debate. As the noble Lord, Lord Collins, may know, my right honourable friend the Foreign Secretary has made a statement on human rights in Hong Kong at the UN Human Rights Council. I will keep the noble Lord updated.

The noble Lord also asked about UK judges. The Government supported the decision of sitting UK judges to resign in March 2022. I am sure that both noble Lords recognise the independence of the judiciary as a key component of any democracy. The UK judges who remain as non-permanent members of the Court of Final Appeal are retired from judicial service in the UK. Lawyers who are practising in Hong Kong do so as private citizens. I am sure they are watching the situation very carefully but, from our perspective, ultimately it is for them to make their own personal decisions. It is important to respect that decision and I am sure they are reflecting on the latest pronouncements and announcements we have seen out of Hong Kong.

The noble Lord also raised issues of security measures in place for individuals in the UK. I am sure that both noble Lords will respect the fact that I will not go into specific details on individuals; as a matter of long-standing policy, we do not comment specifically on operational matters. However, I assure noble Lords that, where we do identify individuals at heightened risk, we are front-footed in providing them with protective security guidance, and indeed any other measures they may require in this respect.

The noble Lord, Lord Purvis, also raised the issue of overseas development assistance and China. We stopped direct Government-to-Government aid to China in 2011. Total ODA to China in 2021 included spend as outlined by the noble Lord. In a Written Ministerial Statement in April 2021, the FCDO committed to cut ODA-funded programmes in China by 95%. In addition, a lot of these programmes cover some of the educational elements. Chevening scholarships, ODA-eligible operational costs for UK diplomatic missions in China and ODA-eligible British Council activities are contained within this. I assure the noble Lord that no funding goes to Chinese authorities in this respect.

On the progress of this, BEIS, for example, announced in a WMS in May 2022 that its ODA-funded activity with China would also finish by the end of the financial year 2022-23. The FCDO is fully aware that China will eventually reach an income threshold to graduate, because of its sheer population size. But I hope I have reassured the noble Lord that, where those programmes are run, they are run within an educational sphere and support the vital work of organisations such as the British Council.

Both noble Lords raised concerns, which I share, that no citizen in the United Kingdom should be subject to any threat; we take this very seriously. The noble Lord, Lord Collins, raised the issue of transnational threats and our agreements and arrangements with other countries. I assure noble Lords that we work directly with all our key partners, including the United States and the European Union. Although the UK has indefinitely suspended its extradition treaty with Hong Kong, we recognise that there should be no place where others may seek to leverage transnational

[Lord Ahmad of Wimbledon]
partnerships and abuse the use of Interpol. We are vigilant on such threats. Of course, if there are further updates to provide to noble Lords, I will do so.

I reassure noble Lords that we work in a transnational way to show that people from Hong Kong, or British nationals overseas who now reside in the United Kingdom, are protected and secure not just in the UK but wherever they may be in the world.

3.51 pm

Lord Cormack (Con): My Lords, I am sure that we are all grateful to my noble friend for bringing his customary thoroughness to the answers he has just given. I declare an interest in that I led the last CPA delegation to Hong Kong before the handover, and two of my grandchildren were born in Hong Kong—my son was serving there.

I am deeply troubled by one thing in particular: the position of the judges. I completely accept what my noble friend said about the independence of the judiciary, and I make no criticism whatever of those eminent judges who still function, to a degree, in Hong Kong. But will my noble friend perhaps think of convening a meeting with them? The fact is that they are lending a veneer of respectability to a dire situation. All our hopes were high at the handover in 1997, and they remained so for many years after. But there is now a sinister repression in Hong Kong that completely abrogates the treaty that China and we agreed to. The time has now come when either China has to accept that treaty again or those who are inadvertently giving a veneer of respectability to it cease to do so.

I make one final point. My noble friend said that there were no plans to raise this issue at the Security Council during our chairmanship. I would ask that he talks to the Foreign Secretary and rethinks that. This is of enormous importance; we are dealing with the second most important power in the world, after the United States, and we must do everything we can to see that the international rule of law is observed by China, not flagrantly abused, as it is currently.

Lord Ahmad of Wimbledon (Con): My Lords, I will start with the final point that my noble friend raised, about the UN Security Council. As my noble friend knows, there are various institutions of the United Nations, and I have become reasonably familiar with them over the last six years as the United Nations Minister, among other things, at the Foreign, Commonwealth and Development Office. That is why we chose the vehicle of the Human Rights Council, which was set up specifically for this matter. It was right that the issue and the statement were raised directly by my right honourable friend the Foreign Secretary. The mandate of the UN Security Council is important, covering security and conflict issues across the piece. Of course, any agenda item on China's role on the UN Security Council will also be determined, in part, by its effectiveness within that particular structure. However, we are raising these issues quite directly with China on a bilateral basis, with the Hong Kong authorities directly and, as I illustrated, at the United Nations.

On the issue of judges, there is nothing further I can really add. Like anyone, I am sure that the judges who continue to serve—and I add again that they are retired judges—will rightly make decisions that are reflective of their own key principles. I am sure that they are looking at these things very carefully. It is essential that the Hong Kong judiciary and Hong Kong's legal institutions can operate independently and free from political interference.

Lord Leong (Lab): My Lords, I thank the Minister for the Statement. He will recall from a debate last week the serious concerns around the alarming authoritarian actions that the CCP is taking against those who speak out so bravely against the regime. I have three questions for the Minister. First, can he assure us that our security forces are ensuring the freedoms and safety of the three individuals currently in the United Kingdom who have enormous bounties placed on their heads? Are they safe from any clandestine activities, whether by criminal or foreign government actors?

Secondly, can the Minister clarify whether any of these eight individuals will now be flagged by Interpol if they travel through international passport controls? Finally, can he give us any further information about attempts by an alleged Chinese spy to infiltrate a meeting in this very building in which two of the three targeted individuals were speaking? That the Chinese security forces are attempting to operate at the heart of our democracy is shocking. It cannot and must not be tolerated.

All parliamentarians must continue to speak up, unintimidated, for those who fight for freedoms in Hong Kong, most especially on our Parliamentary Estate. The Intelligence and Security Committee report released today, as my noble friend Lord Collins mentioned earlier, is critical of the Government with regard to China, especially in their apparent willingness to trade off economic interests and security concerns. These concerns now have a very human face.

Lord Ahmad of Wimbledon (Con): My Lords, there is little that I can disagree with in what the noble Lord has said. I put on record again that I think he adds a real insight and value to our discussions and debates, as he has illustrated in his observations and the questions that he has raised today, and I look forward to working with him on this important agenda. I assure him, as I have already said, that with regard to those nationals who are present in the United Kingdom—and this applies to every British citizen—it is the first duty of any responsible Government to look after the security of their citizens. We do not take that responsibility lightly in any shape or form. Previous Governments have also made this a priority, and I know that future Governments will as well. We will not tolerate any attempts to intimidate people simply for speaking out. We will always defend the universal right of freedom of expression and stand up for those who are targeted.

I recognise the challenge and the important issues that the noble Lord has posed on issues of security. He raised issues and concerns about the Parliamentary Estate. I praise the parliamentary authorities, which remain very vigilant and on the front foot—I have personal experience of such things. Indeed, if any threat is perceived to the estate or to a given individual, particularly a parliamentarian, they are very much on

the front foot when it comes to ensuring the safety and security of the estate and the individual parliamentarians. I have no doubt that it is very much at the forefront of their minds.

On the issue of any heightened risk, we of course keep every assessment and monitor this closely. We are very much aware of the challenges posed by the Chinese Government and state, and indeed other actors—and also of the way in which the threat may emanate. We live in a very different world of the digital age, and we are very much seized of the challenges that we confront there. I assure the noble Lord that, in all these respects but particularly with regard to security—he mentioned the use of Interpol, which I have already talked to—these institutions are set up to protect, not to intimidate.

Levelling-up and Regeneration Bill

Report (2nd Day) (Continued)

4 pm

Amendment 61

Moved by ***Earl Howe***

61: After Clause 78, insert the following new Clause—

"The Common Council of the City of London: removal of voting restrictions

(1) In section 618 of the Housing Act 1985 (the Common Council of the City of London), omit subsections (3) and (4).

(2) In section 224 of the Housing Act 1996 (the Common Council of the City of London), omit subsections (3) and (4)."

Member's explanatory statement

This amendment removes the restrictions in section 618 of the Housing Act 1985 and section 224 of the Housing Act 1996 on members of the Common Council of the City of London from voting as a member of the Council, or a committee of that Council, on matters relating to land in which they have a beneficial interest.

Earl Howe (Con): My Lords, the amendments in this group are all concerned in one way or another with devolution. To start, I beg to move government Amendment 61; I will also speak to Amendment 309. Taken together, they pick up a proposal made by my noble friend Lord Naseby in Committee about the voting rights of members of the Common Council of the City of London. Having considered the issue raised by my noble friend, the Government are of the view that there is merit in correcting the disparity that applies uniquely to members of the Common Council of the City of London, preventing them voting on housing matters when they are also tenants of the council. These government amendments will allow common council members to apply for a dispensation to vote, bringing the City of London into line with the disclosable interest regime that applies to all other local authority members via the Localism Act 2011. I commend them to the House and will be happy to respond to the amendment in the name of the noble Baroness, Lady Taylor, once she has spoken to it.

Lord Davies of Stamford (Lab) (Valedictory Speech): My Lords, for the last two years a very nasty, cruel war has been waged only two or three thousand kilometres to the east of here by the Russians who attacked Ukraine quite gratuitously under the orders of Mr Vladimir Putin, the President of the Russian Federation. He is a man who, I think everybody knows, identifies with the most imperialistic Russian traditions of former tsars such as Peter the Great and Catherine the Great.

We could have flinched from our responsibilities when this invasion took place but we did not, and I congratulate the Government on the strong line that they have taken in support of Ukraine and the good example they have set, which has been followed by many other members of NATO, in supplying vital arms to the Ukrainian forces. It is very important to respond to aggression because, if one does not, one will quite clearly have more of it.

My reason for speaking today is that there has been a very important meeting in Vilnius over the past few days in which the leaders of NATO have set out the kind of policy we should adopt in relation to Ukraine over the coming months and possibly longer. I am glad to say there has been a large measure of consensus and some important developments—very important is the fact that Sweden has now joined NATO. Sweden is an influential country, much respected throughout the world, and a great asset to us in this difficult situation.

The other countries—most recently France and Germany, in the last few days—have also agreed to supply new weapons, which is very important. The West generally has shown that it will not be ignored in a matter of this kind, which threatens the fundamental sovereignty of the peoples of Europe and the peace of our continent. We must always remember—we learned it in the 1930s, of course—that aggressors invariably come back for more, and what one must never do is give in to them. What is very important is that we do not conduct ourselves in such a way as to send a signal to Mr Putin that he can get away with invasion with impunity and that he can alter the frontiers of Europe quite deliberately at his own behest. That must never happen.

There is something personal that I should mention. If I am alive today, it is thanks in large part to the remarkable work of the medical profession. I pay tribute to all those who work in it, most particularly in the NHS. My father was a GP all his working life and was devoted to the founding principles of the NHS. My eldest son has volunteered for years with St John Ambulance, and he gives me graphic and often disturbing accounts of what life is like on the medical front line. The emergency intensive care and trauma teams at Nottingham's Queen's Medical Centre defied the odds when they saved my life after my near-fatal car crash three years ago. I am eternally grateful to them, together with the wonderful rehabilitation team in London, who got me back on my feet.

I am gravely concerned at reports of insufficient numbers of staff and hospital beds, plummeting staff morale, crumbling buildings and other problems which beset the NHS. The Government owe it to the country to do whatever is necessary for the health of the nation, and the time for taking urgent action on this matter is now.

Baroness Taylor of Stevenage (Lab): My Lords, it is a great honour and privilege to follow a characteristically eloquent speech from my noble friend Lord Davies of

[Baroness Taylor of Stevenage]
Stamford. After so many years' service in both Houses since 1987, we owe him a great debt of thanks for the work he has done for the people of this country and for our country. It is my great sadness that I have known him for only such a short time. I was appointed as his Whip just a few months ago. It is a great regret that we have not been able to get to know each other better during that time but, as my noble friend sets off on what I hope will be a long and peaceful retirement, I hope we can keep in touch. I thank him greatly for all the things he has done during his time serving the people of the country.

Earl Howe (Con): My Lords, I listened with much regret and enormous respect to the valedictory speech of the noble Lord, Lord Davies of Stamford. He served as Member of Parliament for Grantham and Stamford for 23 years—for the vast bulk of that time on behalf of the Conservative Party. It did not take long for him to make his mark in the other place, as was evidenced by the *Guardian* naming him parliamentarian of the year in 1996. The BBC named him Back-Bencher of the year in the same year.

The noble Lord served in the shadow Cabinet in the early years of the last Labour Government and demonstrated there his very considerable political and personal abilities. I remember how shocked and saddened his Conservative colleagues were at his decision to leave our ranks, but then how proud we were on his behalf and that of his family that his manifest abilities were recognised by his appointment in the Labour Government as Parliamentary Under-Secretary of State for Defence Equipment, a position he held for two years and one which I know he greatly enjoyed.

In your Lordships' House, the noble Lord has been a doughty and persuasive debater, an assiduous support to his party and a most congenial parliamentary colleague. We wish him well in his retirement.

Noble Lords: Hear, hear!

Baroness Taylor of Stevenage (Lab): I thank the Minister for those words. I say to my noble friend Lord Davies that there is of course a special place in our hearts for those who see the light, and we are very pleased that the other side's loss was definitely our gain. We too wish him a long and happy retirement.

Back to the levelling-up Bill—and I thank the Minister for clearing up the long-standing anomaly relating to the Common Council of the City of London—my Amendment 62 would require the Government to publish a draft devolution Bill setting out their plans for comprehensive devolution across the United Kingdom to empower all local authorities in a wide range of areas where we know they do not currently have the powers to act for their communities in the way that we know that many councils are keen to do. These powers could include a whole range of areas that would enable councils to support local economic growth and help to rebalance and equalise living standards, potential and opportunity across the UK to ensure that every area gives its residents the best chance of contributing to the post-pandemic, post-Brexit economy, and would bring some much-needed hope back to every corner of the UK.

The PACAC report governing England from last October set that out very clearly. The key question this raises is whether decisions are being made in the right place to provide effective government to the people of England. We found that the dominant reason for continued overcentralisation is a prevalent culture in Whitehall that is unwilling to let go of its existing levers of power. The trouble with the way that the levelling-up Bill deals with devolution is that it imposes the long arm of Westminster in selecting the chosen few who will benefit from additional powers. In many ways, that has the potential to add to the complexity instead of making the lines of responsibility and accountability clearer. Surely the devolution agenda has now demonstrated that decisions are best taken in the local interest—for local people, by their local elected representatives. That view was backed up in the Institute for Government's recent report, *How Can Devolution Deliver Regional Growth in England?*, which argued that councils should have greater responsibility for transport, skills and planning to enable them to better support their areas.

The draft Bill would set out plans to ensure that the Westminster apron strings were untied for good and a new relationship of mutual respect and trust—of course, with the appropriate mechanisms for local accountability—could exist between government and local authorities. That would see an end to the expensive and wasteful bidding bingo to which local authorities are currently subjected just because they have ambitions to make things better for the areas they represent and their local people.

Additional powers could relate to, but not be limited to, housing; energy; childcare; transport, including buses and trains—we have an amendment on bus transport in a later group; and skills, training and employment. Many of those areas will require intense and effective partnership working, but councils are no stranger to that; the financial constraints that councils have been under in recent years have meant that almost nothing can be achieved without working across the public and private sectors and between all local agencies. This would require a new relationship of mutual respect and trust between local and central government.

4.15 pm

I am sure that many of us hoped that the incredible, extraordinary response that local government delivered during the pandemic and in other recent crises, such as the cost of living crisis and the arrival of refugees from Ukraine, Syria, Hong Kong, Sudan and other places, would encourage the Government to think more broadly and deeply about devolution.

There was a powerful debate on local devolution in your Lordships' House on 15 June led by the noble Lord, Lord Shipley. We have already seen the power devolution has to deliver better outcomes for people, places and communities as well as for the economy. A Bill setting out a plan for comprehensive devolution across our country, building on what we have learned already, rather than a piecemeal approach where Whitehall picks the chosen few and keeps them tethered with promises of further jam tomorrow, is long overdue. At the end of the debate on 15 June, we were pleased to hear the noble Lord, Lord Evans of Rainow, state:

"we recognise the importance of local democracy, and that devolution is essential for flourishing local democracy". —[Official Report, 15/6/23; col. 2194.]

Devolution is a process, not a moment, and the country continues to see the model evolve and the benefits it brings. Let us take that on to its next steps and give local authorities all the powers and encouragement they need to do their best to deliver everything, everywhere, if not quite all at the same time.

Lord Shipley (LD): My Lords, my name appears on Amendment 62 in this group. I am grateful to the noble Baroness, Lady Taylor of Stevenage, for referring to the debate I moved a few weeks ago on the importance of local government and of renewing it, reviving it and devolving more to it.

The problem is that the Government think that they are doing devolution within England, but they are not; they are effectively replacing with combined authorities, combined counties and mayoral combined authorities all the different forms we had of devolution, such as the regional development agency structure that we had until some 11 years ago. We have seen the problems caused by the fact that no comparable structure exists. The combined authorities are effectively doing spatial planning, strategic housing policy and strategic transport policy, but what we have not got is devolution to local government. The amendment moved by the noble Baroness, Lady Taylor of Stevenage, is terribly important; I could add to the list in subsection (2) of the proposed new clause—we could all do that.

Subsection (3) of the proposed new clause really matters. It states:

"The Bill must also include provisions for a new framework of cooperation between local authorities and the Government based on mutual respect".

I think that is really important. What we have at the moment is an attempt by the Government to run England out of Whitehall, and it simply cannot be done with 56 million people in England; it must be done through devolved structures.

So far, with the replacement of the regional development agency structure, in practice what we have is now a hub-and-spoke model in which schools are effectively being run through a regional structure and, more and more in Whitehall, one can see structures being created which are its attempt to manage the delivery of services across England. Whitehall is undertaking the management of services—as opposed to the policy which underpins those services, which is the role of Whitehall in the main—when it should not be managing the delivery of the service.

That met a major problem with Test and Trace. You simply cannot operate something as big and fundamental as that centrally out of one of the Whitehall departments. I hope the Government will understand that this really matters. It is not just a question of fair funding, money or, indeed, powers in some areas but about a fundamental reset of the relationship between central and local government across England.

If there were to be a change of government, I really hope that I would hear from the Opposition Front Bench that they would keep to the commitments that they have prioritised, that the new Government would do the same thing by producing a devolution Bill within 120 days of being elected, and that that would "include provisions for a new framework of cooperation between local authorities and the Government based on mutual respect". We are here having a preliminary debate about what might happen over the next two or three years, but I sincerely hope that the Government understand the seriousness of this situation. With all the funding problems there are now, I do not think the situation can last that much longer.

Earl Howe (Con): My Lords, Amendment 62 from the noble Baroness, Lady Taylor of Stevenage, seeks to place a requirement on the Minister of the Crown to publish a draft devolution Bill within 120 days of this Bill gaining Royal Assent. I understand and agree with noble Baroness's desire to ensure that local authorities can request powers from central government. However, this is already possible for any principal council under our existing devolution legislation. Any such council could ask for functions to be conferred on it, and the Cities and Local Government Devolution Act 2016 provides that public authority functions can be conferred on local authorities by statutory instrument where the statutory requirements are met. These include consent from the local authority and approval from Parliament.

The devolution framework in the levelling up White Paper sets out our policy offer. It provides a comprehensive menu of options for devolution within a functional economic area or whole-county geography, underpinned by four key principles. The options are multifarious, whether that is moving towards a London-style transport system to connect people to opportunity, improving local skills provision, or being able to act more flexibly or innovatively to respond to local need. There is not a one-size-fits-all approach to English devolution, and areas will want to choose the right model for them.

There is no need for this to be set out in a new Bill: these functions all already exist in primary legislation and, as I said, can be conferred on a local authority via secondary legislation under the 2016 Act. I hope that that is of some help to the noble Baroness and that she will not feel the need to move this amendment when it is reached.

Amendment 61 agreed.

Amendment 62 not moved.

Amendment 63

Moved by ***Baroness Hayman of Ullock***

63: After Clause 78, insert the following new Clause—

"Fair funding review

The Secretary of State must publish the fair funding review within one year of the day on which this Act is passed."

Member's explanatory statement

The Secretary of State must publish the fair funding review setting out baseline funding allocations for local authorities within one year of the day on which this Act is passed.

Baroness Hayman of Ullock (Lab): My Lords, we have one amendment in this group, on the fair funding review. The review document was first published some time ago, back in December 2017. We are concerned that virtually nothing has happened in those five, nearly six, years to bring about its implementation.

We know that local government needs its core funding to have long-term security in order to make proper budgetary decisions and to ensure that it can meet all

[Baroness Hayman of Ullock]
its obligations. So, the fact that reforms to local government funding have been delayed time and again is of great concern. We are particularly concerned now—we were initially told that they were being delayed until April 2023, but they now seem to be delayed beyond the next general election. For some authorities, the delay will simply postpone an inevitable reduction in funding, which is concerning in itself, but for others it could mean waiting up to at least two more years for funding to come close to catching up with their needs.

I stress that what we are talking about here is the critical core funding; it is not related to the other different pots the Government have for councils to bid and apply for. It is the central, critical core funding that councils receive.

What is the Government's expectation about when these funding reforms will be implemented? Is it going to be in 2026-27? Is it likely, by any chance, to come in earlier, or could it even be later? It is important that local government has some sort of clear idea about when to expect it. Is the Minister able to give any oversight on the factors likely to govern and influence the timing of implementation? What kind of package of funding reforms is currently under consideration within the fair funding review?

Given that it has been quite a long time—more than five years, coming up to six—do the Minister and his department believe that the proposals which came out then are still fit for purpose? Are they flexible enough to deal with the shifts in available data and the different council service models that have come forward as a result of Covid-19? There have been quite a number of changes and responses to the pandemic.

We tabled this amendment because we feel that the Government need to act urgently in this area and to basically just get on with it. Our amendment would ensure that within a year of the passing of this Act, the Secretary of State must publish the fair funding review, which would include setting out the baseline funding allocations for local authorities. We believe this is necessary to bring to an end so much uncertainty for local authority budgeting and to allow our councils to plan and deliver the services our communities need. I look forward to the Minister's assurances.

Lord Shipley (LD): My Lords, my Amendment 66 would repeal Section 13 of the Elections Act 2022. Its aim is to reinstate the supplementary vote system for police and crime commissioners in England and Wales, the Mayor of London, combined authority mayors and local authority mayors in England. I said earlier today that there was an excess of centralisation in this Bill and other structures that have been created around combined authorities.

4.30 pm

We are creating a very centralist structure based on a hub-and-spoke model out of Whitehall, in which fiscal powers are not devolved and the Treasury has major control over what happens locally. Given, however, that greater centralisation is occurring, and given the powers of individuals holding those positions, they should demonstrate that they have public support. It is not acceptable—whichever political party a mayor belongs to, for example—that they are elected with around one third of the vote in a first past the post system. I have never believed that, and I have spoken in your Lordships' House before on this matter. You need to show that the individual charged with major responsibilities and powers actually commands public support. To do that means that they should command majority support. First past the post is simply not enough.

I do not intend to test the opinion of the House, but I would not wish this occasion to pass without repeating what I say quite frequently: you have to believe that democracy matters and that those charged with making major public investment decision command the support of their electorates.

The Lord Bishop of Chichester: My Lords, I wish to speak in support of Amendment 63, which I had understood was tabled in the name of the noble Baroness, Lady Taylor, but to which the noble Baroness, Lady Hayman, spoke. I speak having consulted with my colleague the right reverend Prelate the Bishop of Bristol, who has been doing some work in this area.

It seems entirely right and logical that the methodology used for allocating funds for a local authority is based on the most up-to-date information. As has been outlined, the current mechanism of allocating funds does not respond to local needs or local data and often seems to rely on data that is out of date. This will simply act as a barrier to the crucial role local government has to play in ensuring that people can receive the services and support they need, no matter where they live. These services, from collecting bins and filling potholes to providing much-needed support for low-income households and preventing homelessness—core business—have a considerable impact on the wellbeing and welfare of families and households who may be struggling to get by, and in turn affect the fabric of our communities.

We are all acutely aware that as pressure on council budgets grows, the demand for local services continues to rise. If levelling up is to be the mission that animates government to share prosperity across the country, it is vital that local authorities have the powers and funding from government to ensure that they can undertake the services that are so important for people in all our communities, especially those with higher levels of deprivation, and that they are ready to respond to unforeseen emergency crises such as the Covid pandemic.

A broader challenge facing local authorities which will make a difference in determining the success of levelling up is their ability to recruit staff, especially in planning departments. If we are to build more homes and improve our infrastructure, we need high quality fully staffed planning teams alongside neighbourhood and local plans. Again, this is part of core purpose. The fair funding review offers an opportunity to estimate the relative spending needs of different local authorities based on up-to-date information and more recent trends. I support this amendment as a way of increasing support for deprived communities whose welfare and wellbeing rightly has to be the focus of this Bill.

Baroness Pinnock (LD): My Lords, the two amendments in this group apparently have little in common, but they do. Their common feature is that they are all about fairness. Amendment 66 in the name of my noble friend Lord Shipley is about fair voting systems. I obviously support his remarks about the importance to our democracy of having an electoral process and system that is seen to be fair to the electorate. As he rightly said, anyone elected with a third of the vote does not have the support of the majority of the electorate in their area. Fairness in voting is very important.

Amendment 63 in the name of the noble Baroness, Lady Taylor of Stevenage, and introduced by the noble Baroness, Lady Hayman of Ullock, is about fair funding. If levelling up—the name of the Bill—means anything, one element must be fairness across the country. This means fairness in terms of our democracy and fairness in terms of the financial support given to communities across England.

One thing we know is that our communities across the country vary considerably in their levels of inequality. As I have said many times during the debate on this Bill, the levelling up White Paper is full of information about how some people in some parts of our country are at a huge disadvantage because of the inequalities that they suffer as compared with the rest of the country. We have listed these inequalities before: in health, in skills, in access to public transport, in crime levels in their areas and in the quality of the housing and green spaces available. There is a plethora of examples of where some communities and the people who live in them are at a serious disadvantage because of those inequalities. At the heart of that are the councils that serve them. If councils have inadequate funding to provide the level of services that respond to the level of need, those inequalities will persist and get wider.

This brings me back to fair funding. As the noble Baroness, Lady Hayman of Ullock, said, fair funding has been a promise of this Government—a pledge, even—for six years, and rightly so. The national audit companies that do the external audits for local authorities make regular reports about the state of the whole local government system and its financial well-being. I read those reports because they are important; they give you an independent look at the state of local government. They say clearly that a number of local authorities in England will soon not be able to fulfil even their basic statutory responsibilities because they have inadequate finance. As the external auditors say, that is not because there is profligacy in the way the councils are run; it is simply because they have inadequate funds to fulfil their responsibilities. This could be because the areas have high levels of need and deprivation to respond to but it could also mean that they have historically inadequate levels of funding; that is why fair funding is so important.

I understand why the Government have been reluctant to fulfil a fair funding review. Unless there is a bucketload of extra money for local government finance, which I doubt, it will require a re-spreading of the same amount of funding for local authorities. This means that there will be winners but there will also be losers. I guess that is why the Government have so far failed to tackle this thorny issue. I accept that it is not easy but it is essential.

The cause of this is partly the base level of council tax that each authority can raise. Band D is supposed to be the average across the country. However, in my authority, it is band A+, if you like. In the council area that I represent, 66% of the properties are in bands A and B. They cannot raise the same levels of funding from council tax that others can. It also means that people who are living in very modest properties are paying high levels of council tax. None of that is fair. I come back to fairness and levelling up because, if levelling up is to mean anything, it must mean—I say it again—more investment in the very areas that the Government's White Paper identifies. Those are the same areas that are underfunded in terms of their core funding with which to deliver essential public services.

I support Amendment 63 and urge the Government to put something into practice—to do something. Even if it has to be phased in, there must be a better approach to the funding of local government than we have currently. I will put the same pressure on the Labour Front Bench that my noble friend did. If Labour gets into government, will it do fair funding? It is vital because, otherwise, a number of councils will no longer be able to sustain basic services.

Earl Howe (Con): My Lords, as the noble Baroness, Lady Hayman, explained, this proposed new clause would require the Secretary of State to publish the fair funding review, which I take to mean the 2018 government consultation on fairer funding for local government, *A Review of Relative Needs and Resources*.

I hope to persuade the noble Baroness that publication of the review would not now serve any useful purpose. As I explained in Committee, the data on which the review was based are now historic. First, the review does not take into account the 2021 census and demographic data. Secondly, neither the data nor the consultation responses take any account of the events of the past five years, including, most significantly, the Covid-19 pandemic and the advent of high inflation. Both developments have profoundly changed our economic landscape. As the noble Baroness, Lady Taylor, has pointed out previously, using outdated information is a fundamental issue in today's system. Publishing the response to the fair funding review at this point in time would not help us to fix this problem.

4.45 pm

There are important questions about how resources should be allocated and about how and by whom local services should be financed. The noble Lord, Lord Shipley, made these points cogently in Committee. If we are to tackle these complex questions, which underpin levelling up, the way to do so is for the Government to consult local partners on the challenges that they are facing today, not to publish a review based on outdated data. We constantly hear the sector's calls for stability, which is why I firmly believe that the right moment to work with local partners, as I have described, to consider any changes that might be needed is in the next Parliament.

I was grateful for the speech by the right reverend Prelate the Bishop of Chichester. It may be helpful to

[Earl Howe]
the House if I set out very briefly some of the things that we have tried to do to address the issues that he rightly raised. The final local government finance settlement for 2023-24 has made available up to £59.7 billion for local government in England, which is an increase in core spending power of up to £5.1 billion, or 9.4% in cash terms, on 2022-23. Over the last three spending reviews, between 2019 and 2024, local government has seen real-terms increases in core spending power. That reflects a conscious desire by government to maintain stability in local services.

The noble Baroness, Lady Pinnock, spoke of the inequalities that exist in a number of local authority areas. She was quite right to do so. The most relatively deprived areas of England—the upper decile of the index of multiple deprivation—will receive 17% more per dwelling in available resource through this year's settlement than the least deprived areas. Millions of people in local areas throughout the UK will also benefit from the levelling up fund. The second round of the levelling up fund will invest up to £2.1 billion to 111 local infrastructure projects across the UK, which will create jobs and boost economic growth. In recognition of the differing abilities to generate income from council tax increases, we have equalised against the adult social care precept since its introduction and will continue to do this in 2023-24. The only other point I want to emphasise is that the Government remain committed to improving the local government finance landscape in the next Parliament and beyond.

I hope that the noble Baroness, Lady Taylor, will understand that I am not trying to be difficult; I just want to get us all to where we need to be in the most effective and sensible way. I suggest that this is not an amendment that the noble Baroness should press to a Division.

Amendment 66, in the name of the noble Lord, Lord Shipley, seeks to repeal Section 13 of the Elections Act 2022. The Government's manifesto committed to supporting the first past the post voting system. Section 13 of the Elections Act implemented that commitment, changing the voting system for mayoral elections in England and PCC elections in England and Wales, and was approved by noble Lords just last year.

We remain clear about the merits of first past the post as a robust and secure way of electing representatives. It is well understood by voters and provides strong and clear local accountability. First past the post makes it easier for the public to express a clear preference; the person who is elected will be the one who directly receives the most votes. The change also reduces complexity for the voter and administrator. Repealing Section 13 alone would not automatically reinstate the supplementary vote system. It would instead leave a gap in the applicable voting system. Express provision reinstating the supplementary vote system would be needed to do that.

In addition, in practical terms, Section 13 of the Elections Act works together with a suite of statutory instruments which were also approved by your Lordships in 2022. Those statutory instruments made consequential changes to the rules for how mayoral and PCC elections are conducted, and to the ballot paper and other forms to ensure consistency with the first past the post voting system. Repealing Section 13 would therefore leave an incomplete and inconsistent legislative framework, which could lead to confusion for those tasked with administering elections.

Baroness Hayman of Ullock (Lab): I thank the Minister for his response. However, I would like to make a couple of points. I do not think he has addressed the fact that we still have this huge issue of funding not being fairly allocated. That is the whole consideration. I completely appreciate that the figures are different now and that things have moved on; the Covid pandemic changed the situation for councils. But how long will it be before further consultations and discussions take place? How long will it be before we have another proposal, and will that be looking at fair reallocation? This is something that has been promised to councils for an awfully long time, and it is frustrating that it is potentially going to drag on for years longer, because we still have that disparity of core funding.

The extra funding mentioned by the Minister such as the levelling-up funds is not part of what we are talking about in this instance. It does not deal with the fundamental problem of the long-term fairness of allocation of funds right across the board. The Government may say that they are giving a particular council some extra money or there is this bit coming in, but that does not deal with the ability of councils to know in the long term what kind of funding to expect and be able to budget and plan services accordingly.

Finally, the lack of fair funding, which means that many poorer areas have less money, is only exacerbated by council tax returns—richer areas tend to receive more because their properties are of a higher value—and this is particularly true for business rates, as poorer communities do not tend to have businesses that pay the higher rates of tax to local authorities. So, while I will withdraw my amendment, I really think that this needs to be considered in more detail.

Amendment 63 withdrawn.

Amendment 64

Moved by ***Lord Northbrook***

64: After Clause 78, insert the following new Clause—

"Business improvement districts

(1) Within 6 months of this section coming into force, the Secretary of State must launch a review of arrangements for business improvement districts ("BIDs").

(2) The review must consider whether the arrangements should be changed so that—

(a) local residents are consulted on proposals to establish a BID,

(b) local residents are represented on BID proposal groups which prepare the business plan,

(c) local residents participate in the vote on the establishment of a BID,

(d) local residents are represented on BID management bodies, and

(e) local planning authorities may veto BID proposals if there is significant objection from local residents."

Lord Northbrook (Con): My Lords, Amendment 64 seeks to amend the legislation on business improvement districts—BIDs—so that residents have a say in their establishment, policies and management bodies.

There has been widespread criticism of the undemocratic way in which BIDs are established and operate. The Government website says:

"There is no limit on what projects or services can be provided through a Business Improvement District. The only requirement is that it should be something that is in addition to services provided by local authorities".

As a result, powerful local businesses can push through projects for their own commercial benefit, for which they are willing to pay. In my area, the Royal Borough of Kensington and Chelsea is happy to agree to them if they can be described as "improving the public realm". Local residents may be affected by these projects—streetscape, street furniture, new advertisements and clutter, narrowing of the carriageway, unwelcome new parking and traffic management arrangements and other anti-motorist measures—but they cannot influence them.

I want to say a few words about two BID schemes in the borough in which I live. The Cadogan estate, for which I have the highest regard—it has done some great developments in Duke of York Square and Pavilion Road, for instance—has initiated and established two BID schemes. Following Committee, I have been asked by the chief executive, Hugh Seaborn, to re-examine the comments that I made about lack of consultation during that stage; I am grateful that he is reading our debates. Having reviewed the matter, I have to correct some of my comments. Residents' associations—Brompton, MISARA and the local society, the Chelsea Society—were consulted by Cadogan but their views do not seem to have been taken into account in the final decision. In fact, they might as well not have been consulted at all.

I believe that the BID legislation should be amended so that local residents, first, are consulted on proposals for their establishment; secondly, are represented on BID proposal groups that prepare the business plan; thirdly, participate in a vote on the establishment; and, fourthly, are represented on BID management bodies. In addition, local planning authorities—LPAs—should be able to veto BID proposals if there are significant objections from local residents, not just if they conflict with a significant policy of that LPA.

The Minister's response in a letter on BIDs was that

"the majority of BIDs set Baseline Agreements with their local authority to demonstrate the additionality it will provide over the term of the BID. The Government encourages the use of clear agreements and the fostering of strong ongoing relationships between BID bodies and their local authorities, to make sure each is aware of their obligations towards one another and to agree changes to such agreements where appropriate. The BID itself is responsible for deciding on the mix of representatives to ensure their Governance Board is an effective decision-making body with the right skills. The legislation does not preclude local authorities from being represented on the BID board, nor residents or members of the community".

My reply to that would be that the Minister's response did not answer the point. Indeed, the legislation does not preclude residents from being represented on the board of a BID, but what happens at present is that BID promoters make arrangements for their own commercial advantage and exclude resident representation as they know that the views of local residents will conflict with those of the business promoters.

My noble friend Lady Scott of Bybrook did not explain why she opposed the amendment. She said that local authorities are represented on some BID boards and reiterated that

"the legislation does not preclude residents … from being consulted".

She also said:

"It is right that the businesses that will be required to fund the BID make the decisions on whether there should be consultations",—[*Official Report*, 20/3/23; col. 1645.]

effectively concerning their undemocratic nature.

The Knightsbridge BID board of 19 people has one council officer and one RBKC councillor who does not represent any residents living in the area covered by the BID. I fear a repetition of the damage that has already been caused to Sloane Street, narrowing the carriageway so as to create dedicated parking bays and installing large, ugly planters to prevent ram-raiding. This is why I have tabled Amendment 64.

I also wish to speak to Amendment 65, which seeks to prepare a code of practice for major, non-statutory consultations by local authorities to ensure that they are impartial and not manipulative. Within six months of this section coming into force, the Secretary of State must publish a code of practice for major, non-statutory consultations by local authorities. The code must recommend ways to ensure impartiality, including, first, having a consultation conducted by an independent third party; secondly, having the consultation materials and process pre-approved by such a party; or, thirdly, having those materials and process submitted in draft to the main stakeholders for their review and comments in advance of the consultations. The Consultation Institute commends on its website *The Art of Consultation*, by Rhion Jones and Elizabeth Gammell, as:

"A unique book, essential to those involved with consultations … There's a multi-million-pound industry out there, currently asking us what we think. Lots of this is public money and much of it is wasted. Whilst a great deal of consultation is effective, some of it is downright dishonest; decision-makers have already made up their minds. If they then consult, it's a waste of everyone's time; they are just going through the motions".

5 pm

There have been a number of examples of consultations by RBKC designed to endorse a project which the council has already decided it wishes to implement, with manipulative questions and no attempt at impartiality. One such was the RBKC consultation on the Cadogan Estate's scheme to narrow the carriageway on Sloane Street so as to create parking bays outside its high-end designer shops, which will increase already high levels of congestion and pollution on the street and disfigure it with 52 ugly planters, believed to prevent ram raiding. This was taken up by the council and rebranded as a scheme to "improve the public realm". Among the consultation materials—to give but one example—was a question on whether people wanted "more trees and planting", which was welcomed as people generally like more trees, instead of separate questions about trees and planters, which might have seen the planters rejected. The request by the main local residents' association that the consultation be conducted by an independent third party, failing which it sought the

[Lord Northbrook]
opportunity to review and comment on the consultation materials in draft before being issued, received no reply. I emphasise strongly that I am not criticising in any way the Cadogan Estate's pursuit of its commercial objectives, merely the way in which the council chose to conduct its consultation.

During the debate in Committee, the noble Baroness, Lady Hayman, wondered whether existing Cabinet Office guidelines could help, and the noble Baroness, Lady Pinnock, said that she thought there were already guidelines for consultations by local authorities. I have discovered, unfortunately, that the Cabinet Office guidelines do not help because they refer only to consultations by the Government. There is a code of practice on publicity issued by local authorities, but this does not extend to consultations. There is some LGA guidance on the technicalities of conducting a consultation, but this does not address the issue of impartiality. I have asked the Consultation Institute whether it is aware of anything authoritative that does.

The Minister, the noble Baroness, Lady Scott of Bybrook, objected that a requirement for all consultations to be carried out by third parties would increase additional costs on local authorities. That is a fair point, so I have recast the amendment to include

"(c) having the consultation materials and process submitted in draft to the main stakeholders for their review and comment in advance of the consultation".

I believe that option (c) would normally be the cheapest and most effective.

It should be noted that major non-statutory streetscape schemes such as the Sloane Street scheme can be every bit as contentious as and more significant than the vast majority of planning applications. However, streetscape schemes do not require planning approval. Everyone accepts that planning applications must, by law, go through a form of consultation involving the local community; the same should apply to major non-statutory schemes. I have not sought to define "major"—that can be left to the Government.

I have been asked again by the Cadogan Estate to say that a consultation on the scheme took place, with information being sent to nearly 13,000 properties, but only 1,170 responses were received. I beg to move.

Baroness Pinnock (LD): My Lords, I thank the noble Lord, Lord Northbrook, for the two amendments in his name, which relate to a specific issue that he also raised in Committee. On the face of it, Amendment 64 is a general plea to make business improvement districts more responsive to the views of the residents that they affect.

The noble Lord, Lord Northbrook, has used as an example an area of London of which I know little, so I will not be able to respond or comment in any way on the specifics of that. However, on the generalities of business improvement districts and the amendment in the noble Lord's name, business improvement districts play a significant role in economic development. They are a tool that local authorities can use to stimulate business enhancement in parts of the local authority district, so that is important.

Business improvement districts vary considerably across the country. Some, as my noble friend Lady Thornhill has told me, work very well, such as in her area of Watford. However, in some areas of the country they have been perhaps more disruptive and less effective. The noble Lord, Lord Northbrook, made a very important point about always taking local residents with you. That is important in a democracy: if you upset the local residents, I can tell you that they now have many tools by which to make their views known. I am really pleased that the noble Lord has brought the generality of business improvement districts and their relationship with residents that are impacted by them to the attention of the House in this Bill, along with the importance of always listening to local people and responding effectively to what they have to say.

I appreciate that in Committee the Minister was—how do I put this?—lukewarm in her response. I wonder whether today she could be tepid or warm in her response, because that would help resolve the issue that the noble Lord has identified. I am sure it will have to be replicated in other parts of the country, but not everywhere, because some BIDs work very well.

Baroness Taylor of Stevenage (Lab): My Lords, I am very grateful to the noble Lord, Lord Northbrook, for bringing both these amendments forward. It enabled a lot of thoughtful discussion in Committee and again now on Report.

It is disappointing that there has not been adequate consultation on the particular BID and the programme that the noble Lord, Lord Northbrook, spoke about. I did some work in the Royal Borough of Kensington and Chelsea after the Grenfell disaster. The Grenfell disaster was literally the worst example of a council not listening to its residents. It had been told for many years of the concerns that residents had and had not listened to them. Of course, that has changed the way that many councils now listen to their residents—for example, through resident programmes. I had hoped that was the case there, but perhaps it is just this example where it is not. Let us be hopeful and optimistic that that is the case.

On these Benches we absolutely support the principle that residents should be engaged in key changes to their local areas, including business improvement districts. It is just as important that residents in an area are engaged as it is for the businesses participating in the zone concerned. We are in the process of a £1 billion town centre redevelopment in my area. Every step of the way, we have taken the trouble to consult extensively with residents. I look forward to hearing the Minister's comments on how there may be some more specific consultation for BIDs and how the Government might further consider that.

In relation to the other amendment the noble Lord spoke to, in principle we fully support the full engagement of residents in decision-making, although we have some concerns about the financial implications of the proposals to compel the use of outside agencies. I think the noble Lord used the term third parties—that might be a different independent third party, and sometimes could be interpreted as outside agencies and consultants, which are notoriously expensive when they do this work on behalf of councils.

I draw attention to the report pulled together by the RSA and the Inclusive Growth Network called *Transitions to Participatory Democracy: How to Grow Public Participation in Local Governance*. It makes a number of recommendations on growing the engagement of local people so that you have a more sustained participation journey, rather than these out-of-the-blue consultations on planning and other things happening at decision-making points, in which people come to the table with a negative view right from the start. It is much better if people feel that they have more permanent engagement with their local authority.

The report recommends that these routes should be developed over time, strongly based on meeting people and local organisations where they are and not expecting them to engage on council territory. We need consultation to take place earlier in the process—so that people are engaged in the design of schemes or projects and they are not produced like a rabbit out of the hat for people to comment on—and never when decisions have already been taken. If you have already taken the decision, do not tell people that you are consulting on it because they will see through that straight away. That is really important.

This has been a very useful prompt to think these issues through. We look forward to hearing the Minister's comments.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con): My Lords, Amendment 64 in the name of my noble friend Lord Northbrook concerns a review of business improvement districts. I have listened very carefully to this debate and the debate in Committee. We want BIDs to work with and alongside residents and members of the local community. It is important that the projects and activities that a BID delivers benefit the local area and encourage more people to visit, live and work there. Residents and members of the community are not prohibited in legislation, as I said in Committee, from being consulted on a new BID proposal. I know many BIDs that include many stakeholders, including the communities they serve. There is nothing to stop a local authority doing that.

It is clear that we need to explore how BIDs can work better with residents and communities, but I do not believe that legislating for a review in this Bill is the right approach. I therefore ask my noble friend to withdraw this amendment, but with my reassurance that I will take this away and consider the proposition of a government review of the BID arrangements. I would welcome further conversations with interested noble Lords to take this forward.

On Amendment 65, there is a statutory framework, and clear rules for consultation already exist in some areas, such as planning. There is also a statutory publicity code which is clear that all local authority communications must be objective and even-handed. There is support and guidance for local authorities on how they should do this. As I said, councils also carry out non-statutory consultations to allow residents to shape local decisions and plans.

I absolutely agree with the noble Baroness, Lady Taylor of Stevenage, that this should not be a one-off; it works much better when local authorities have a good ongoing relationship and conversation with their communities. It is then much easier to deal with issues such as those my noble friend Lord Northbrook raised in Kensington and Chelsea, because it is a continuation of an ongoing conversation. I encourage all local authorities to look at how they can do that better. Greater involvement for local people can be only a good thing. We do not think it is for the Government to tell councils how to do it. Most councils know how to do it; they know what works best in their area and get on with it.

I agree with the noble Baronesses opposite that the concern over the requirement for all consultations to be carried out by third parties is that it would impose additional costs on local authorities and may encourage less consultation and engagement rather than more because they just cannot afford it. I therefore hope my noble friend will agree not to press his amendment.

Lord Northbrook (Con): My Lords, I am most grateful to all noble Lords who participated in debates on these amendments. I particularly appreciated the offer of the noble Baroness, Lady Scott of Bybrook, to look at the way bids work to ensure better relationships with residents.

On Amendment 65, I appreciated the noble Baroness, Lady Taylor of Stevenage, talking about the costs of outside consultants. I was hoping that

"having the consultation materials and process submitted in draft to the main stakeholders for their review and comment in advance of the consultation"

would cover that point.

In the meantime, having thanked all noble Lords, I wish to withdraw my amendment.

Amendment 64 withdrawn.

Amendments 65 and 66 not moved.

Consideration on Report adjourned.

House adjourned at 5.16 pm.