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House of Lords

Tuesday 3 November 2009

2.30 pm

Prayers—read by the Lord Bishop of Wakefield.

Introduction: The Lord Bishop of Lichfield

2.36pm

Jonathan Michael, Lord Bishop of Lichfield, was introduced and took the oath, supported by the Bishop of Ripon and Leeds and the Bishop of Wakefield.

Death of a Member: Lord Steinberg *Announcement*

2.40 pm

The Lord Speaker (Baroness Hayman): My Lords, I regret that I have to inform the House of the death last night of Lord Steinberg. On behalf of the House, I extend our condolences to his family and friends.

Health: Side Effects of Medication *Question*

2.41 pm

Asked By The Earl of Sandwich

To ask Her Majesty's Government how they will ensure that doctors and pharmaceutical companies fully recognise the long-term side effects of prescribed tranquillisers and antidepressants, and the nature of withdrawal symptoms.

Baroness Thornton: My Lords, the Government are aware of concerns around prescribing these medicines, particularly after the report of the All-Party Parliamentary Group on Drugs Misuse. The Department of Health is undertaking a review of addiction to medicines which is due to report next year, and of course the Medicines and Healthcare Products Regulatory Agency continuously monitors the safety of medicines on the UK market and issues advice to raise awareness of the potential for side effects.

The Earl of Sandwich: My Lords, I thank the Minister for her reply and I welcome the review. Can she confirm that there are approximately 1.5 million people in the UK who are addicted to prescribed drugs such as benzodiazepines? I declare an interest. A member of my family is confined to his room; he is trying to withdraw from one of these drugs. He cannot work or take the children to school. There is no government benefit or assistance for people in his situation. Can the Government confirm that they are getting on with a proper NHS network of support for these patients?

Baroness Thornton: The noble Earl is, I fear, not alone in direct experience of what can happen to people who suffer from withdrawal reactions to these drugs. There are support services available in some areas of the country which have a good success rate in helping people to withdraw from medicines to which they have become inadvertently addicted, but we recognise that the availability of these services is variable and patchy. Our review will seek to identify what needs to be done to better support people experiencing these problems. We will also review the services that are currently provided in order to gauge the level of support available, and draw on best practice to ensure that we get full cover and support for people in these situations.

Lord Ashley of Stoke: My Lords, have the Government made their own special study of the effects of these tranquillisers? Are they able to impose their views on doctors and pharmaceutical companies? Does the Minister agree that pharmaceutical companies can be far more resistant to pressure from the Government than doctors and that it will require much stronger pressure on the companies than on the medical professions?

Baroness Thornton: My noble friend asks a very pertinent question. Product warnings are kept under close review. One example of this relates to products containing codeine, where new, hard-hitting warnings such as "can cause addiction" and "for three-day use only" on the front of the pack will be introduced next year. Guidance to the healthcare professions will be considered as part of the review that is taking place.

Lord Williamson of Horton: My Lords, I declare an interest as a patron of Rethink, the mental health charity, which does excellent work. There is also the medication helpline of the Maudsley Hospital.

Will the Minister consider whether there could be improvements in the information available to those who suffer from mental health problems as the result of withdrawal from prescription drugs? There may be a gap there that we could help to fill.

Baroness Thornton: The noble Lord makes an important point, and the review will be looking at that. There are examples in Liverpool and Bristol of counselling information, education and advice being made available to people, but the noble Lord points to the importance of telling people who are being prescribed these drugs what the side effects might be.

Lord Elton: My Lords, will the inquiry bear in mind the advisability of advising doctors not merely on the dangers of addiction but on the method of keeping in view the condition of people for whom they prescribe these drugs long-term, and who will become addicted without their own knowledge unless they are carefully monitored?

Baroness Thornton: There is a great deal of information available to prescribers of these drugs: the British National Formulary; product information; the National Prescribing Centre, which has an excellent record; and—for the treatment of depression, for example—NICE

[BARONESS THORNTON]
guidance talks not only about the effect of prescribing but about the need to provide other therapies to people who are suffering from depression.

Baroness Barker: Does the Minister agree that it would be beneficial if all pharmaceutical companies were required to print information about the half-life of tranquillisers and anti-depressant drugs, so that individuals trying to manage the process of coming off them could do so knowing what the effects were likely to be over a short period?

Baroness Thornton: In answer to a Question put by my honourable friend Jim Dobbin, the Minister said that:

“The half-life of a drug intended for use as a sleeping tablet is only one of many factors that influences the safe use of a medicine. Information to aid ... safe use ... is provided in the product information which consists of the Summary of Product Characteristics ... and the Patient Information Leaflet”.—[*Official Report*, Commons, 20/5/09; col. 1435W.]

The key point is that those resources are used at the right time.

Lord Crisp: My Lords, in setting up the review, will the Minister ensure that it takes full account of implementation? She will know as well as I do that there is a difference between policy and implementation. Does she have any thoughts about how to ensure that this policy, which needs to be a very personal one to every member of the primary care team, is disseminated so that people are not only aware of it but follow it in practice in all the individual cases that we are talking about?

Baroness Thornton: The review will be completed next year, with a report published later in the spring. We are doing a counting exercise, reviewing evidence of the prevalence of addiction, effective treatment and the long-term effects of the use of a range of antidepressants, sleeping pills and codeine-based painkillers. That will influence future policy. The noble Lord is right, though, that the policy leadership within the department has to address how to ensure that this is rolled out and how to use the machinery and levers that we have to ensure that it is implemented.

Baroness Gardner of Parkes: My Lords, does the Minister agree that these drugs are obviously very complicated and must be of benefit to a number of patients or they would not be in such common use? Does she have any figures on the percentage of people who become addicted?

Baroness Thornton: I do not have any figures on the percentage of people who become addicted. That is part of the exercise that we are undergoing. The noble Baroness is right that we must not forget the impact of depression, for example, on sufferers, and that depressive illness is a debilitating condition. One in four women and one in 10 men in the UK is likely to suffer from depression at some point in their lives, and these drugs will help to transform their lives and enable them to cope and recover.

Lord Acton: My Lords, does my noble friend agree that “next year” is a rather long and elastic time? Could the review not be tightened up a bit?

Baroness Thornton: We are moving with all speed because we know that this is important, but I promise my noble friend that I will take his views back to the department and see if there is any way that we can hurry up.

Health: Walton Report *Question*

2.49 pm

Asked By Baroness Thomas of Winchester

To ask Her Majesty’s Government what is their response to the Walton Report on Access to Specialist Neuromuscular Care, launched in August.

Baroness Thornton: The department welcomes the Walton report into services for those living with muscular dystrophy. Following the publication of the *National Service Framework for Long Term Conditions* in 2005 to improve health and social care services for those with muscular dystrophy, progress to improve services has been made. However, in some parts of the country, services are not meeting the expected standards. The department is committed to working with stakeholders to improve overall standards.

Baroness Thomas of Winchester: I thank the Minister for that reply, especially the last bit about improving standards. Will the Government take urgent action to address the disturbing fact revealed in the report that the life expectancy of boys with Duchenne muscular dystrophy living in areas of Britain with poor specialised services is only 18 years, while in other regions with better specialised services it is now over 30? Will the Government in particular encourage the 10 national specialised commissioning groups to ensure that there is co-ordinated multidisciplinary specialist care throughout the country for boys in that situation?

Baroness Thornton: I thank the noble Baroness for drawing this issue to my attention. We have enormous sympathy for people living with muscular dystrophy—and their families and carers—particularly those with Duchenne, a very severe disease with which about 100 boys are born every year. We are very concerned that life expectancy is shorter in some areas than in others. We are aware that in some parts of the country—for example, in the south-west and West Midlands—specialist services have been redefined and redesigned. We need to learn from that. I have asked Steve Collins, who is the deputy director for commissioning, to look at how other regions might learn from the south-west and West Midlands. I am happy to offer the National Specialised Commissioning Team to work with the muscular dystrophy association to set up the best practice commissioning workshop in the new year.

Lord Walton of Detchant: My Lords, I am deeply honoured by the fact that the all-party group should have decided, at a meeting at which I was not present, to attach my name to this report. Is the Minister aware that the most recent evidence from the highly specialised centres in Hammersmith Hospital, Oxford, Oswestry and Newcastle upon Tyne has been able to demonstrate that, for boys with Duchenne muscular dystrophy, the average age of death is now in the 30s, with a few boys now living into their 40s? To ensure that there is stronger national leadership and clearer accountability for the development of specialist health services for neuromuscular diseases, will the Government instruct the NHS National Specialised Commissioning Group to appoint a national named lead, who will be responsible for the development and co-ordination of specialised commissioning for these patients?

Baroness Thornton: I have to say—I am sure that the House will join me in this—that I am not surprised that the report was named after the noble Lord, given his record and work in this area. For those with rare neuromuscular diseases whose services are commissioned by the National Commissioning Group, there is already in place a named commissioning manager, medical adviser and finance leader, who have responsibility to commission these services. However, of course this varies across the 10 SHAs and groups, depending on the type of commissioning that they are doing. I should like to take the noble Lord's question back and ask again whether we will be looking for a named lead responsible for those services. I suspect that, given his intervention, the answer will probably be yes.

Baroness Campbell of Surbiton: My Lords, what progress has been made in embedding in the NHS the vital posts of neuromuscular care co-ordinators in the UK, several of which are reliant on charitable funding? All of them are vital in maintaining equal access to healthcare for people with muscular dystrophy and other neuromuscular conditions. Does the Minister realise that this is an equality issue, not just a health one?

Baroness Thornton: The noble Baroness points to the very important work that neuromuscular care co-ordinators do and we are aware that several of them are reliant on charitable funding. The local health authorities are responsible for ensuring that they have the correct mix of health and social care professionals to meet the needs of their local population who live with muscular dystrophy. PCT commissioners should consult the local stakeholders on their plans for commissioning.

The Lord Bishop of Chester: My Lords, I declare an interest as a supporter of the NeuroMuscular Centre in Cheshire, one of the flagship providers in the charitable sector for people with serious muscle-wasting diseases. The well named Walton report refers to a lack of clarity and responsibility in the NHS for supporting services for people with these diseases. What pressures can be brought to bear on the one-third of primary care trusts in the north-west that refuse to provide any

support to the NeuroMuscular Centre for the work that it does on behalf of their patients, while the other two-thirds of the PCTs are glad to do so?

Baroness Thornton: The right reverend Prelate points to where we started with this Question, which is the patchy nature of some of the services. I am hopeful that, if our National Specialised Commissioning Team will work to set up the best practice commissioning workshop, we will attract people from across the country who are dealing with this issue and that we can encourage them to use the best practice.

Lord Judd: Does my noble friend accept that there is a widespread problem of access to these services? There has been reference to the centre of excellence at Newcastle upon Tyne, which certainly is a centre of excellence. However, is she aware that those living on the west coast of Cumbria, for example, have to travel right across the United Kingdom to Newcastle to have access to those services? Is that really satisfactory?

Baroness Thornton: I think that it is probably absolutely not satisfactory, which is why we have to attend to reviewing this and are calling on our local services to make sure that they provide local care at local level.

Armed Forces: Political Activity Question

2.57 pm

Asked By **Lord Razzall**

To ask Her Majesty's Government what restrictions apply to political activities of former chief armed forces officers whilst they are still in receipt of remuneration from the armed forces.

The Minister for International Defence and Security (Baroness Taylor of Bolton): My Lords, regular service personnel are free to join political parties. They are not permitted to take an active part in political activities during their service with the Armed Forces.

Lord Razzall: My Lords, in thanking the noble Baroness for that Answer, I am sure that the House will appreciate that my Question has been provoked by the announcement that General Dannatt is to become a Tory adviser on defence. First, does the noble Baroness think it appropriate for a senior officer who is still being paid to be paraded in this way by a political party? Secondly, does she agree that, to ensure that senior officers are not seen as party political, it would be better for there to be a significant gap before the Chief of the General Staff, after his resignation, joins a political party? Thirdly, does she agree that in the event of a change of Government, were that to happen, General Dannatt's replacement as CGS will be placed in an impossible position if his advice to the Prime Minister is countermanded by his immediate predecessor?

Baroness Taylor of Bolton: My Lords, the noble Lord raises some interesting speculation about what might happen on some future hypothetical occasion should there be a change of Government. Queen's Regulations give very clear guidance on what should happen when members of the Armed Forces seek to participate in politics. As I mentioned, it is possible to be a member of a party but not to be active in it. There are also rules about gaps between leaving service and taking paid employment. As for who should sit on the current Opposition Front Bench, or on any future Government Front Bench that is not from my political party, I would not dream of speculating.

Baroness Knight of Collingtree: My Lords, does the Minister consider that, in this context, a pension counts as remuneration?

Baroness Taylor of Bolton: My Lords, the pensions of those who serve in our Armed Forces at senior levels come into play as soon as they leave the service and they are significant. They are something that people work for and pay for. I think that those who leave senior positions in any area of life have to be extremely careful about what responsibilities they take on subsequently.

Baroness Symons of Vernham Dean: My Lords, as I understand it, this appointment is being made in the period that is known as the period of terminal leave, which is a paid period. Can my noble friend tell us, as a matter of fact, whether there are any restrictions on the political activity of former members of the Armed Forces during the terminal leave period? Also, given the serious disquiet that there has been in some quarters about this appointment, not least in the MoD, can she tell us whether there have been any formal complaints to Her Majesty's Government and whether she has received any informal representations?

Baroness Taylor of Bolton: My Lords, I do not wish to talk about informal representations from the Dispatch Box, and, of course, any formal complaints would not come to Ministers because Queen's Regulations are enforced by the Army itself and not by Ministers. My noble friend is right that this is the terminal leave period. The former CGS stood down from his responsibilities on 28 August and does not leave the Armed Forces until 22 November. Queen's Regulations state what should happen when people want to take up paid employment. They actually say that a candidate must take all steps within his power to ensure that no public announcement is made before he has retired or resigned. However, I think that the leak may not have come from the individual but perhaps from a party leader of a particular persuasion.

Lord McNally: Does the Minister not have some sympathy for General Dannatt? When he was appointed, he specifically said that he was taking up this appointment because of the lack of expertise on the Tory Front Bench in this matter.

Baroness Taylor of Bolton: My Lords, I have found the Tory Front Bench, as indeed all Members of this House, very diligent in their responsibilities in questioning what is happening in the Ministry of Defence.

Electoral Commission: Weekend Polling *Question*

3.01 pm

Asked By Lord Tyler

To ask Her Majesty's Government whether they will examine and consult on the recommendation of the Electoral Commission that election turnout could be increased by transferring polling to weekends.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My Lords, the Government have already conducted a full public consultation on the merits of moving election day to the weekend and whether it could be expected to support greater participation. The Government's response to the consultation will be published shortly in the context of the Government's wider thinking on promoting engagement in the electoral process. However, the responses reveal that there is a wide range of views on whether weekend voting would have a positive impact on turnout.

Lord Tyler: My Lords, I am truly grateful to the Minister, unusually, for that reply. Will he confirm that it is the Government's overall intention to seek ways to increase participation in elections, particularly in parliamentary elections, because that is so crucial to the future of our democracy? Will he therefore take this opportunity to say in straight terms that the proposals of officials in the Ministry of Justice to the Treasury that there should be restrictions on the number of hours for polling and a marked reduction in the number of polling stations, particularly in rural areas, are dead and buried? Will he also confirm that Mr Straw said that these proposals were completely unknown to Ministers? In those circumstances, can he explain what would have happened if they had gone to the Treasury without being leaked? Would the Treasury then have sought to implement them without reference to Ministers?

Lord Bach: My Lords, as my right honourable friend the Justice Secretary made absolutely clear on Friday, the document referred to by the *Times* newspaper was a working paper produced by officials collating ideas for further consideration. It does not represent agreed government policy. Had Ministers seen the proposals, officials would have been informed that many of them were simply unacceptable. They will not be developed any further.

Lord Howarth of Newport: My Lords, are there not reasons profounder than the possible inconvenience of voting on a Thursday why turnout at elections has declined? Does my noble friend think that they may include public revulsion at adversarial politics and

negative campaigning, disillusion with a consumer model of politics, routine trivialisation and disparagement of politics by the media and loss of respect for politicians?

Lord Bach: My Lords, there clearly are a large number of reasons why in recent decades the number of people voting at general elections has on the whole gone down. However, I should point out that the 2005 turnout was higher than the 2001 turnout. I am sure that my noble friend has stated some of the reasons why that has happened and it is right that we, particularly in this House, should defend politics. There is no doubt that politics and politicians get a very raw deal at present from what passes to be the media in this country.

Lord Henley: My Lords, following on from what the noble Lord, Lord Howarth, said about people being alienated from the electoral process, does the Minister accept that his Government's policies are wrong, particularly on matters such as immigration—even the Home Secretary has admitted that—and have been wrong over the past few years, which has led to support for fringe parties such as the BNP and, as the noble Lord, Lord Howarth, said, to a large number of people being alienated from the voting process?

Lord Bach: My Lords, I do not agree at all with what the noble Lord suggests. The fact is that all political parties from time to time face the onslaught of the media, including individual and party politicians. That is a danger which we all face in a democracy such as ours. For the noble Lord to categorise one aspect of policy as if that somehow led to one result does not give enough seriousness to the issue we face.

Lord Maxton: My Lords, given that we live in an electronic age in which most of us use computers on a regular basis, does my noble friend agree that it is time we introduced electronic voting in this country to ensure that the maximum number of people can vote from a maximum number of places? Does that not mean, to ensure security, that we must eventually introduce compulsory ID cards?

Lord Bach: My Lords, on the first part of my noble friend's question, which is very much relevant to the Question I was originally asked, e-voting, as he knows, has been trialled in statutory elections in the UK and it certainly remains one of many possibilities for further consideration as a voting method. But the introduction of voting by internet would require careful consideration. We would have to be sure that the necessary technological and legislative provisions were in place to maintain confidence in the electoral process. Of course, that would require primary legislation, too; and I have to tell him that it would not be right to bring forward changes of such substance to the parliamentary election rules this close to a general election. Indeed, if we did, we would be criticised for it.

Lord Forsyth of Drumlean: My Lords—

Lord Maclennan of Rogart: My Lords—

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): My Lords, I am sorry, but it is the Liberal Party's turn, although I am sure we will hear from the noble Lord, Lord Forsyth.

Lord Maclennan of Rogart: My Lords, when the Government respond to the consultation on voting will they indicate whether they have taken into account the fact that France, Germany, Spain, Italy and a majority of countries in the European Union hold their voting in general elections at weekends? What impact might that have on voting turnout?

Lord Bach: I am sure that we will take account of what happens in other countries. The Electoral Commission survey led to this Question. It made an interesting finding, but it is perhaps worth noting that the answers to the survey, particularly when responding to a prompt from an interviewer, as was the case here—I remind the House that the commission asked non-voters if the opportunity to vote at the weekend would have made them more or less likely to vote—are not always a good indicator of voter behaviour, perhaps in part because people still feel some social obligation to vote.

Lord Forsyth of Drumlean: My Lords, given that the Electoral Commission now costs more than £100 million over the course of a Parliament—£25 million a year—which is more than all the political parties will spend altogether on all the elections conducted during the course of a Parliament, including a general election, does the Minister not think that this body has too much time and money on its hands?

Lord Bach: My Lords, I do not. The noble Lord will remember, from legislation that this House helped to pass a few months ago, that we have reformed the Electoral Commission so that it can do its job even better than it does at the moment.

Baroness Prosser: My Lords—

Baroness McIntosh of Hudnall: My Lords—

Baroness Hollis of Heigham: My Lords—

Baroness Prosser: My Lords, I am seldom lobbied on any matter to do with the business of the House, mostly because my friends and family recognise that I have very little influence over the business of the House. However, I am lobbied constantly on the disruption to the lives of working parents when schools are closed on Thursdays for elections. Does the Minister agree, now that more mothers are participating in paid employment, that it is important to recognise this when responding to the consultation exercise that has taken place?

Lord Bach: My Lords, certainly it is an important consideration. There is another consideration on the other side—there always is—which is that people do not always like to have their weekends disrupted.

Lord Greaves: My Lords, is it not the case that when people are sufficiently enthused and motivated by political parties and candidates, and by the democratic political system, they will go out and vote; and that until such time as they are, no matter what tinkering the Government want to do with the mechanics of voting, people have a perfect right to stay at home and say, “We are having nothing to do with any of you”?

Lord Bach: My Lords, in strict legal terms, of course they have a perfect right to stay at home. Whether they have the right in other ways, I am not as convinced as the noble Lord. Many people gave a lot of time and blood to make sure that those over the age of 21—except of course those in this House—had the right to vote. That is something that should be taken extremely seriously. Enthusiasm about politics and politicians is very important, and politicians have a role to play in that. However, if I may go back to an earlier theme, so too do the media.

Arrangement of Business

Announcement

3.12 pm

Lord Davies of Oldham: My Lords, with the leave of the House, my noble friend Lord Mandelson will now make a Statement on higher education. My noble friend Lord Myners will repeat the Statement on banking reform immediately after the Statement on higher education.

Higher Education

Statement

3.12 pm

The First Secretary of State, Secretary of State for Business, Innovation and Skills and Lord President of the Council (Lord Mandelson): With your Lordships’ permission, I should like to make a Statement about *Higher Ambitions—The future of Universities in a Knowledge Economy* that we are publishing today and placing in the House Libraries.

The past 10 years have been a decade of outstanding achievement for higher education in this country. Talented people and enterprising institutions, backed by public investment and reform, have delivered the twin objectives of widening access and creating excellence.

When the Government reformed university fees, we were told that students, and especially poorer students, would be put off from applying. The opposite has occurred. A record number of students now attend university, and the gap between socio-economic groups has narrowed, not widened. For the first time, a million people will start their studies this year. The quality of student academic achievement is high. Drop-out rates have fallen by a fifth and the number of Firsts has doubled. This demonstrates that wider opportunity is not the enemy of excellence, as opponents of change have alleged.

We have a disproportionate share of the world’s leading research universities. With just 1 per cent of the world’s population, we achieve 12 per cent of the world’s scientific citations. Institutions across the sector have contributed to the success—the newer universities alongside the older ones.

Public funding for both research and teaching has increased by more than 50 per cent in real terms since 1997. Universities have developed new sources of income, and tuition fees are bringing in £1.3 billion a year to boost the quality of a student’s education. We should thank universities, their teaching staff, administrators and students for this outstanding record of very real achievements.

The strategy that we are publishing today aims to set a course for an equally successful decade ahead. But new times and new conditions require some fresh policy choices and judgments. The coming decade will see public expenditure inevitably more constrained. Attracting the best students and researchers will become more competitive. Above all, it will be a decade when our top priority is to restore economic growth, and our universities need to make an even stronger contribution to this goal. Able people and bright ideas are the foundation stones of a thriving knowledge economy. Producing both are what good universities are all about. So in the next 10 years we will want more, not fewer, people in higher education and more, not less, quality research.

Our first objective, therefore, is that all who have the ability to benefit can access higher education. There should be no artificial caps on talent. Our goal remains for at least 50 per cent of 18 to 30 year-olds to enter university. We have made great progress in the number of people beginning a three-year degree at 18 or 19 years. But the challenge for the next decade is to offer a wider range of study opportunities—part-time, work-based, foundation degrees and studying whilst at home—to a greater range of people. So we will encourage the expansion of routes from apprenticeships and vocational qualifications to higher education, and offer more higher education in further education colleges.

Inadequate information, advice and guidance at school still bar too many young people from fulfilling their potential. We will work with the Department for Children, Schools and Families to rectify this. To meet the social mobility goals in Alan Milburn’s report, all young people must be encouraged to strive for challenging goals by teachers with ambitious expectations for them.

Universities should also do more to reach out to all young people with a high potential. I want to be clear that this Government will not dictate universities’ admissions procedures, nor undermine excellence. All students must continue to enter higher education on merit. But I believe merit means taking account of academic attainment, aptitude and potential. Many universities are already developing their use of contextual data, and we hope that all universities will consider incorporating contextual data into their admissions processes better to assess the aptitude and potential of those from disadvantaged backgrounds.

I am also asking Sir Martin Harris, who heads the Office for Fair Access, to consult vice-chancellors on improving access to the most selective universities, and he will report back in the spring.

The Government's second objective is for universities to make a bigger contribution to economic recovery and future growth. Knowledge generation and stewardship in all subjects have public value and are important in their own right. They are vital, in particular, to creating wealth through the commercial application of knowledge and preparing our people for employment. We have therefore decided to give greater priority than now to programmes that meet the need for high-level skills, especially in key areas such as science, technology, engineering and maths. A new contestable fund will provide universities with the incentive to fulfil this priority. Areas where the supply of graduates is not meeting demand for key skills will be identified. We will seek to rebalance this by asking HEFCE to prioritise courses which match these skills needs.

We will look to business to be more active partners with our universities. Employers should fully engage in the funding and design of university programmes, the sponsorship of students and offering work placements. We believe this is possible without compromising universities' autonomy and educational mission.

Our third objective is to strengthen the research capacity of our universities and its commercialisation. The investment of the past decade has greatly strengthened the public science base. We will continue to protect its excellence. This will require a greater concentration of world-class research, especially in the high-cost scientific disciplines. Research excellence is, of course, spread across a wide number of institutions and subjects. The challenge now is to develop new models of collaboration between universities and research institutions, so that the best researchers, wherever they are located, co-operate rather than compete for available funds.

The Government's fourth objective is to promote quality teaching. The quality of education provided by our universities is generally good but needs to be higher. I welcome the action that universities are taking to raise standards in teaching and to strengthen the external examiner system. Students deserve nothing less. They will rightly expect to be better informed about how they will be taught and their career prospects. We want the Quality Assurance Agency to provide more and clearer information to students about standards in our universities. Students' expectations and actual experience should be central to the quality assurance process.

Our fifth objective is to strengthen the role of universities in their communities and regions and in the wider world. Universities provide employment, enhance cultural life and offer many amenities to their surrounding communities. They shape and communicate our shared values, including tolerance, freedom of expression and civic engagement. We will support universities in safeguarding these values. We will ask universities to continue developing their role in local economic development with the regional development agencies and with business. The Government will also do more to champion the international standing of our universities as world leaders in the growing market for higher education across borders and continents, including by e-learning.

In the decade ahead, we will expect more from our universities than ever before. They will need to use their resources more effectively, reach out to a wider

range of potential students and devise new income sources, while maintaining excellence. As we look to our universities to do more, we will also need to look afresh at securing the funding that excellence requires and how all who benefit from higher education—taxpayers, students, and the private sector—should contribute. It was agreed in 2004 that the new fees structure in England should be reviewed at this stage and the Government will make an announcement about this shortly. But I should stress that we will seek a properly and fairly balanced approach, without placing an unreasonable or counter-productive burden on any single source of funding.

At the heart of the framework published today is a strong and creative vision of higher education: about strong, autonomous institutions with diverse missions and a common commitment to excellence; about a shared framework for extending opportunity to all who can benefit; and about our universities as a cornerstone of our country's cultural and social vitality and our future economic prosperity. I commend this Statement to the House.

3.23 pm

Lord De Mauley: My Lords, I thank the First Secretary of State for the Statement and for his courtesy in showing it to me beforehand. Like him, I pay tribute to the great strengths of our higher education sector and to the talented people who work in it. This strategy document has been a long time coming. When, in his first week in office, the Prime Minister established the Department for Innovation, Universities and Skills, many people might have expected a clear statement of the Government's approach to higher education. Unfortunately, before that happened, the department was shut down. We were then led to understand that a strategy paper would, none the less, appear in late summer or early autumn. There were even leaks about the possibility of no-fee degrees for those living at home, which I did not hear the noble Lord mention today. Then, after a speedy U-turn, we were told that the document would appear in mid-October. But even if it is third time lucky, we still welcome the main themes.

It is right to focus on the quality of the student experience. My honourable friend David Willetts has raised this issue repeatedly in recent months, so it would be churlish of me not to welcome the Government's perhaps somewhat belated commitment to this issue. Students are borrowing much more than they used to in order to attend university, and the sum of money that each university receives per student has increased markedly. Universities have strived to reflect this in the education they offer, but the national student survey shows no clear trend in student satisfaction.

Irrespective of the future level of tuition fees, we need a new focus on the quality of the education on offer as well as the consequences in terms of salary and life chances of studying different courses at different institutions. That was the conclusion of the Government's own student juries and it explains why my party's work on the problems of social mobility has produced, among other things, the concept of a new, independent, all-age careers service and a proposal for a new social mobility website.

[LORD DE MAULEY]

We also welcome the Government's commitment to improve the links between businesses and universities. At every level, education is and should be about so much more than the financial benefit in career terms. But too often the whole debate about higher education has downplayed, or even excluded, the role that businesses can play, and increasingly want to play. Strengthening the links between business and higher education offers benefits to students, companies and the wider economy.

It is regrettable that more progress has not been made over the past decade and that the issue is only now receiving the Government's attention—now that companies are struggling to cope with the effects of the recession. Nevertheless, the most innovative universities have made steady progress and are already showing the benefits that accrue from stronger links with business. So even if progress is overdue, we welcome that new commitment also.

Today's document is not primarily about the student finance review, but while that is still to come this document is likely to be closely studied for clues about that whole area. We have been calling for more than two years for the review to start. However, now that it will soon begin, we do not think that it is in anyone's interests to rush to judgment. It cannot be, as some people would like, a 10-minute review in which a small group of vice-chancellors agrees simply to raise fees. No decisions should be taken until we know more about the educational impact of the last increase in fees, or about the public spending consequences of a further increase. We are also clear that the review must be broad.

Sometimes, this Government have tended to think of students as exclusively young, full-time undergraduates. But the student body is so much more diverse, with mature learners, part-time learners and second-chance learners. We would like to encourage further diversity in years to come, as the number of young people falls and as we rebalance the economy. So when the student finance review finally starts, it must look at higher education in the round. If that happens, we will do what we can to co-operate on a cross-party basis.

While we welcome the Secretary of State's focus on the student experience and improving links between business and universities, and while we look forward to co-operating with the review, we have some real concerns about the Government's approach to higher education. Not all the key indicators have been moving in the way we were promised. A decade ago, the Government adopted a suspiciously round target of having 50 per cent of all young people at university by 2010. Today, despite numerous changes to the way the data are measured, the proportion of young people at university is still way below that level.

Despite the shortage of other opportunities during the recession, and record increases in applications, Ministers are now threatening to fine universities which have over-recruited students this autumn. Universities must sometimes feel as though they are in an absurdist play in which one hand of Government urges them to take on more students while another seeks to punish them for working to achieve that. Ministers used to speak a great deal about widening access to university—we

heard more talk of that today—but the key figures show that progress has been regrettably slow. The number of students from socioeconomic groups four to seven has inched up from 28.2 per cent to 29.4 per cent since 2003-04. We also deprecate the slow progress that has been made in helping part-time students, who are on a funding regime that is clearly indefensible, and on older learners, many of whom have been put off from going back to university by the Government's penal changes to the equivalent and lower qualifications rules.

I finish by posing four specific questions to the Secretary of State on the back of today's Statement. First, will the student finance review team be free to consider questions about part-time funding, about the links between higher education and further education and about postgraduate funding; or will it be asked to look simply at the level of the fee cap and to rubber stamp the direction outlined in today's strategy document?

Secondly, the noble Lord mentioned the appointment of Sir Martin Harris to consult vice-chancellors on improving access to the most selective universities. Can he say whether and, if so, how, that exercise will tie into the funding review? Thirdly, given the mixed record of Aim Higher and other initiatives, how can he reassure the House that future efforts to widen participation will be more successful? Lastly, can he reassure the House that the current crisis in the Student Loans Company, which is hurting vulnerable students hardest of all, will not be forgotten as the longer term questions about higher education take centre stage?

3.31 pm

Baroness Sharp of Guildford: My Lords, I thank the First Secretary of State for his Statement and say how very welcome it is. We share with him the celebration of what has been achieved by our universities during the past two decades in widening access and exploiting their research opportunities, so that we are challenging the United States in spin-offs per capita and the quality of education provided.

Equally, a number of problems are posed to our universities today. Whether one can, as the noble Lord did in his Statement, cite the fact that there has been a doubling of first-class degrees as an indication of the quality of performance of our universities, I am not sure. The Select Committee in the other place raised some real questions about that issue, but also about the quality of teaching being provided generally. We have seen difficulties in the trade-off between money to be spent on research and money to be spent on teaching in our universities, with the emphasis on research coming from the research assessment exercise such that, on occasion, money for teaching has been squeezed in favour of research.

I have a number of specific questions for the Minister, some of which reflect concerns expressed by the official Opposition. First, he talks about widening the range of routes into university and of the widening of study opportunities, which is welcome. Precisely how are the Government considering the inequity between part-time and full-time funding for students? At the moment, all the incentives are to be a full-time student, not a part-time student. It is unfair that a full-time student

who does 20 hours work a week can claim a full-time grant, whereas those who are honest about it and try to learn and earn at the same time are penalised for doing so. It would be interesting to hear how the Government propose to address that inequity.

Secondly, the noble Lord talks about careers opportunities and how vital they are. In the Apprenticeships, Skills, Children and Learning Bill, currently before the House, we have been considering the importance of careers teaching for young people and how apprenticeships, in particular, should be widened. However, there is a crisis in the Connexions service. There are not enough qualified people to provide the service in schools. What does the Secretary of State propose to do about revamping the Connexions service and providing a proper careers service in schools?

The Statement refers to prioritising stem subjects and to a contestable fund for HEFCE. Will it be limited to science, engineering and maths subjects or will it be extended to other subjects where there is a strategic shortage of teachers, such as languages, and even to some of the creative arts subjects where employment opportunities are expanding fast but we have to look overseas to meet them?

The Statement also refers to concentrating research resources. Is there evidence to support this? I was involved in research by the Science Policy Research Unit in the 1990s. We looked at the productivity of research groups and found that, except in exceptional circumstances, such as in astrophysics, research concentration did not increase productivity in publication or patenting terms. What was needed was a group of half a dozen like-minded people who could bounce ideas off each other. In the early 1990s, that was within their own little group, but the internet makes collaboration that much easier. The Secretary of State is quite right to emphasise collaboration. The degree to which there is evidence to support concentrating research funding rather than encouraging diversity, because from diversity comes creativity, is vital.

Finally, I return to fees. We recognise that the Statement does not address them. A review will be announced next week. We on these Benches are rather sad that the two main parties have connived to make sure that the review reports after the general election. Fees are a highly contentious issue, so it is obviously very convenient to have the report after the general election rather than before it. We have two questions. First, in considering how far fees should increase, how far is it right that our young people should be burdened with even greater debts than at the moment and should have to start out life with these huge debts? Is this a good way of funding their contribution? Secondly, are the Government looking at some of the more creative ways of funding the student contribution that, for example, the National Union of Students is now exploring? I echo the points made by the noble Lord, Lord De Mauley, about the Student Loans Company. Student loans are now worth £30 billion as part of the national debt and are increasing by £7 billion to £8 billion a year. At the moment, the Student Loans Company—the public exchequer—is having to meet increased fees. Is that really sensible?

3.38 pm

Lord Mandelson: My Lords, I am very grateful for the relevance and precision of all the questions put to me. I shall respond first to the noble Baroness. As I said in my original Statement, it is important that we reduce the inequity—as she calls it—between full-time and part-time students. In the next 10 years, we will face a falling number of teenagers, and we will therefore want to attract older people into higher education. In doing so, we must vary patterns, lifestyles and backgrounds—those in work and not—to maximise our recruitment to higher education. Therefore we will look at how those who want, or are available for, part-time as opposed to full-time study may be attracted into higher education, and how we can make that more possible.

I have been in this House on occasions during debates on the Bill. Indeed, I have heard the noble Baroness, Lady Sharp of Guildford, speak about careers teaching in our schools. I am very glad that the Secretary of State for Children, Schools and Families has recently proposed to make available much better information, advice and guidance, and we will work closely with his department to promote that.

The noble Baroness asked about the priority given to STEM subjects. My view of this and whether we should extend the finance available from contestable funding is that it depends on the relevance of other subjects, some of which she mentioned, to the economy's skills needs. She mentioned languages. Employers do look to languages—they are an increasingly important skill need, despite the preponderance of English speaking in the world—so when we consult HEFCE and others on how contestable funding will operate, we will certainly take her observation into account.

I see the noble Baroness's point about research groups and research concentration. None the less, there are now many examples across the country of where concentrating funds on a greater critical mass of researchers has given dividends. This year, the Engineering and Physical Sciences Research Council has established 45 multidisciplinary centres for doctoral training that are building links between different teams and universities and with industry on the basis of previous experience and a track record. We need to experiment with models of that sort to see whether research concentration will give us even greater benefits and dividends in the future.

The noble Baroness also talked about the fees review. If she does not mind, I would prefer to describe that review and its remit and terms of reference when I have consulted on them, when they have been agreed and when I am ready to announce them to this House. That will be before too long.

The noble Lord, Lord De Mauley, asked about the Student Loans Company. I am very sorry, as I have said before, that the company's service has fallen well short of the expectations of students and their families. More students than ever before have applied to universities, so the workload has been huge. None the less, there is no excuse for the service which the company has provided. We are inquiring into what went wrong to ensure that it does not happen again.

[LORD MANDELSON]

The noble Lord asked whether the fees review will include the financing of part-time students. I think that I have answered that. It will. Similarly, Sir Martin Harris looked at access to the more selective universities. Where they are relevant, there will be plenty of time for his findings, which I expect next spring, to be fed into the work of the fees review, which we expect in the next nine to 12 months.

The noble Lord asked about wider participation and hoped that there would be more success with that in the future. We are at 43 per cent and rising, which is not a bad record given our target of 50 per cent. It just shows that we have more to do in, among other ways, the approaches that I have described in the Statement.

Overall, I have to thank the noble Lord for what he has said. It must have something to do with the clarity, relevance and coherence of our proposals that I do not think that he has been able to find a thing I have said this afternoon with which to disagree, which I welcome. In following our approach, I hope that the noble Lord will check his homework and his figures with his colleague the shadow Chancellor, from whom it seems that education is not very high on his priority list. I can only take at face value what Mr Osborne says. When we hear from Conservative Party spokesmen, we just have to bear in mind their record when they were in government. It is very serious.

I am slightly torn, but I feel that I have to quote the chancellor of Oxford University, Chris Patten, the former Conservative Party chairman, in this context. Last year, the noble Lord, Lord Patten of Barnes, said:

“What is true is we”—

talking about the Tories in the 1990s—

“expanded higher education hugely by reducing the investment in each student. In just over a decade we doubled the number of students and halved the investment in each. The Treasury calls that higher productivity”.

That, he said, is,

“a euphemism for poorer pay, degraded facilities, less money to support the teaching of each student”.

We do not have to look into the crystal ball to know what might be offered by the Conservatives. We just have to look at what happened last time.

3.47 pm

Lord Baker of Dorking: My Lords, I will try to resist the temptation to engage in such base politics, because I was going to welcome much of what the Secretary of State said. Perhaps he might recognise the fact that the greatest expansion of university education took place when I was Secretary of State, but that is ancient history. I welcome in particular two aspects of what he said. The first is that he will ensure that, as the cost of education is borne more and more heavily by students, universities give good value for money, which is absolutely essential. Secondly, I welcome the fact that he is going to make more higher education studies and faculties available in further education colleges. We must bring the further education and the higher education sectors together. If we are to produce a skill-based economy, it must be a seamless robe.

The Secretary of State used a very engaging phase in the Statement in saying that he wanted no cap on talent. Perhaps I may ask him about the numbers going to university. This year there has been a record application and it looks as though next year will exceed that by a substantial figure, because those who did not get in this year are applying again and there has been a surge in overseas student applications. In his discussions with the Chancellor in the next few weeks, will he do everything that he can to ensure that, next year, all those British students who want to go to university and who are qualified to do so will be able to? There should be no cap on talent.

Lord Mandelson: I welcome what the noble Lord has said and take this opportunity to wish him a happy birthday. It is very important to stress this point: if we are going to ask students to make greater individual payments and to take out loans, which they pay back subsequently, they have to be treated like quality paying customers of these institutions. Therefore, they have to know which institutions, universities and courses they are choosing between and among. They need more information to choose from. That information must include the quality of teaching, the number of teaching hours and the amount of face-to-face contact between themselves and university teachers. The QAA has a particular responsibility to make a great and proactive effort to elicit, categorise and tabularise that information and make it available to students. I can assure the noble Lord that, in the discussions that I will have with the Chancellor, I will emphasise the great need, for the vitality of our society and for our economic strength and growth, to continue to invest in universities and higher education programmes as much in the future as we have in the past 10 years.

Lord Morgan: My Lords, I must declare great enthusiasm for what my noble friend said. Some of us tried to run universities under the previous regime and this is a pleasant improvement. It is worth pointing out that some of the Government's other policies have also assisted higher education. I am thinking particularly of devolution and our higher links with Europe, bearing in mind what my noble friend said about the need for promoting regional development and extending higher research collaboration with other universities.

There is a possible mismatch between two of the excellent objectives that my noble friend mentioned—namely, the existence of high-level institutions and clusters of people working at that level and the need for developing professional skills. Our best institutions and departments seem to me to be concerned with something else: developing the intellectual resources of students. For example, you train students in the principles of jurisprudence, not how to be lawyers. It is important that the work of universities is not diminished or cheapened in that respect.

The point about part-time students is extremely important, given the Government's commitment to lifelong learning. I should like to hear from my noble friend a further affirmation of the need to resource that, bearing in mind the trouble that we had earlier with ELQs and their diminishing effect on, for example, the Open University. One hopes that that will be overridden.

Perhaps I may make a final plea as one who was once a vice-chancellor. Universities would get on very much better if they had to grapple with less bureaucracy, which has been a managerial constraint. Mankind is in paper chains in our universities, but it would be nice to be free.

Lord Mandelson: I certainly agree with my noble friend that as much form-filling and box-ticking as we can persuade others to reduce is welcome, but perhaps I may emphasise one of my noble friend's other points. Universities are not factories for producing workers; they are educational institutions that exist not only to generate, transfer and inculcate knowledge but also to enable those who benefit from higher education to use that knowledge. When I talk of skills, I refer to a range of attributes of a graduate that together make up an individual's employability. As employers constantly stress to me, they look as much for generic and soft skills as for specific and hard skills, if I can use those expressions.

Lord Broers: My Lords, would the Minister say a little more about the concentration of research, particularly in the science, engineering and technology fields? I agree entirely with the noble Baroness, Lady Sharp, about collaboration, which can take place in these subjects as well. However, in certain subjects it is difficult to supply the equipment necessary to more than one institution. This does not mean that the institution has the right to use all the equipment itself. A very good model can be found in the United States at the National Science Foundation, where centre status is allocated to given universities on the basis of the strength of their case that they will collaborate with anyone in the country by making the facilities available to them. This is essential in many subjects, but especially in my own, that of microelectronics. We have lost our competitiveness in this country because we failed to do that. The money was spread over about five institutions, none of which had adequate resources to sustain international competitiveness.

There are some areas where we have concentrated extremely well. Here I declare my interest as chairman of Diamond Light Source Ltd, which is the UK's largest science project. It has been extremely successful, but I have written to the First Secretary to say that, unfortunately, because of funding difficulties in the Science and Technology Facilities Council, the future even of that resource is in jeopardy. Can the Minister reassure us that the facilities that we have established will not be put at risk in the future and that we are prepared to concentrate resources within individual institutions on the basis that they share their equipment with everybody?

Lord Mandelson: Yes, my Lords, I think that I can give the noble Lord that reassurance. In what he says he seems to be endorsing the approach that I have set out this afternoon. First, I would like to stress that, when I talk about research concentration depending on the volume and critical mass of the research being undertaken, that is not related to the size or status of a particular institution. It is very important to stress that. Secondly, the noble Lord is right to point out that, if we were to spread our resources thinly across

too many institutions or research centres, it might result in each of them having insufficient resources. That is at the core of what I have described today; it is precisely what we want to overcome with what I hope is a smarter, more intelligent approach to the allocation of research funds. Incidentally, those funds have doubled over the past 12 years of the present Government. We have invested in particular in our first-rate, first-class science base and we intend to continue to protect that science base.

I want just to make a final point. The reason why I believe that science needs to attract particular funding and a concentration of resources is that it involves investment in technology and machinery that is much more expensive than in other disciplines. That is why we are drawn to science and why we have to look to applying the principles of resource concentration in that direction.

Baroness Shephard of Northwold: My Lords, I declare my interests as chairman of the council of the Royal Veterinary College and chairman-elect of the Institute of Education. The Statement mentions Alan Milburn's Panel on Fair Access to the Professions, of which I was a member. The noble Lord will know that the paper produced by the panel identified real problems with the careers service and the advice on careers given by teachers in schools in relation to tackling the aspiration gap. The paper made some fairly specific suggestions on what universities should do about this, but I do not think that I noticed what specific guidance was going to be given to schools and the careers service about what they should do on their part. After all, they have longer contact in terms of years with young people in which to help them to develop their aspirations. I would like an assurance from the noble Lord, because I do not think that I got it from the Statement, that these deficiencies will be addressed as vigorously as he says he will address the apparent deficiencies in the performance of the universities, although I must say that I think most universities are making every possible effort to address those.

Lord Mandelson: First, I thank the noble Baroness for the work that she put in with Alan Milburn and her other colleagues to produce an excellent piece of work and a first-rate report.

The noble Baroness is absolutely right to place emphasis on the Careers Service and the provision of information, advice and guidance on careers in schools. She would, if she had listened carefully, have picked up a sentence or more in my Statement. I invite her to look at the framework statement as a whole, where she will see the emphasis that we have placed on this. It is why we are going to co-operate even more closely and diligently than we have in the past with the Department for Children, Schools and Families, which has responsibility in this area.

I hope that teachers in schools will reflect on their own vital role in nurturing, cultivating and encouraging confidence and ambition. I benefited from education at a wonderful college at Oxford. I was the second member of my family to go to university but the first to go to Oxford. I would not have dreamt of applying there had it not been for my economics master,

[LORD MANDELSON]

Mr Michael Brown. Despite my headmaster's opposition to my going anywhere near Oxford or Cambridge—he was not in the mood for encouraging me to go anywhere but down and out of his school, for a variety of reasons which I shall not detain the House with—Mr Brown stood up for young Mandelson and said, “No, he should apply”, and I did. We need more teachers in our schools like the Browns, who do not think that going to university is elitist or superior but believe that it is an ambition that young people should rightly have if they have the aptitude, qualifications and potential to do so.

The Lord Bishop of Ripon and Leeds: My Lords, I declare an interest as a member of the court of Leeds University. I particularly welcome the references in the Statement to potential, to serving all who benefit, and also to universities' contribution to their local communities and the important part that that plays within the life of the towns and the cities of this country.

I have two specific questions. First, the Statement seemed continuously to stress economic growth and creating wealth as the chief aim of higher education. Will the Minister also affirm the tremendous contribution that particularly research departments make to, for example, pain research and the way in which the quality of life for the sick has been enhanced so greatly, especially by collaboration between our universities and the NHS?

Secondly, is the Minister prepared to say anything about the equivalent and lower qualification rules, which have been referred to a couple of times in this discussion, and about the way in which they damage widened access because they create considerable difficulty for people who seek to change their careers during their life?

Lord Mandelson: I welcome what the right reverend Prelate has said. However, he should not take my definition of economic growth and creating wealth in the narrow way that he implied. When we talk about pain research or other ways of paying attention to the needs of the sick, we are talking not only about creating wealth to provide a first-class health service in our country but about creating wealth in the broadest sense of the term. There is such a thing as public wealth. Public goods and public services constitute wealth in our society, and university research and the graduates that it produces contribute to those as much as they do to any other sort of wealth creation.

Lord Howarth of Newport: My Lords, I welcome all the thrust of my noble friend's Statement as well as the bipartisanship and commitment to continuity in policy on higher education that we have seen today. While agreeing absolutely with him that universities have a duty to be responsive to their students and to provide information, choice, value for money and a high-quality educational experience, I ask him to share with the House his thoughts on the following.

In a consumer culture—and my noble friend has just encouraged students to see themselves as customers of universities—and in a culture in which one person's

entry in Wikipedia is as good as another, how is the principle of academic and intellectual authority to be sustained, as well as an ethos of professional responsibility that reflects values other than those of the marketplace? If we raise the cap on student fees, as I believe it is absolutely necessary that we should, this problem will be intensified. So, will he say that people should not expect to be able to purchase academic goods, including good degrees, as they might purchase a car or other accoutrements of a lifestyle?

Lord Mandelson: I am sympathetic to the sentiment that my noble friend has expressed. If he does not mind, though, I would like to reserve my response for the time when we launch our fees review.

Lord May of Oxford: My Lords, I welcome the Statement from the noble Lord, Lord Mandelson, under whom I have had much pleasure in serving for several years. There is no doubt that the present Government have done many good things, both for universities in general and for research in particular, but, as a voice from the trenches, I tell them that not all the trends have been happy.

One remarkable achievement that the Secretary of State did not mention is the growth in administrative and bureaucratic processes and staff in universities in this country. There is a study, based simply on the telephone directory of a major university from 15 years ago to today, that shows that the ratio of administrative staff to faculty has doubled. There are other studies of this kind. I assure him from my 20 years at Harvard, Caltech and Princeton, that that is totally different from the leanness of the administrative staff in American universities. While I do not wholly agree with the simple statement that producing growth is what higher education is all about—it has many other purposes—the one thing it is certainly not about is producing growth in administrative services.

Lord Mandelson: I give the noble Lord the firm undertaking that, as we take forward and consult on all the proposals contained in this framework, I and my Universities Minister will want to be satisfied that any change that comes about will not lead to the growth of the trend that he has described.

Baroness O'Neill of Bengarve: My Lords, everything that the First Secretary has said—

Lord Tunnicliffe: My Lords, I am afraid that the 20 minutes for Back-Benchers is up.

Banking Reform Statement

4.08 pm

The Financial Services Secretary to the Treasury (Lord Myners): With the leave of the House, I would like to repeat a Statement made by my right honourable friend the Chancellor of the Exchequer.

“Mr Speaker, with permission, I would like to make a Statement on the banks in which we have shareholdings. This morning the Treasury, Lloyds and RBS issued market notices in the usual way.

In October last year, I set out a range of measures designed to prevent the collapse of the banking sector. These measures are working, and countries across the world took very similar steps over the following weeks. But the uncertainty in global financial markets had a very serious impact on confidence, resulting in a world recession. This, in turn, worsened the outlook for our economy, leading to higher losses for UK banks.

It was clear that further action was needed to strengthen the banks, and in January we announced the asset protection scheme to prevent a further shock to confidence and ensure that lending could continue. We continued to support the economy through fiscal and monetary policy and co-ordinated a global policy response at the London summit in April. These measures are working, too. Fears of a global depression have receded and market confidence has started to return. As a result, we are now able to achieve our objectives on financial stability and banking reform at a lower overall cost to the taxpayer.

The asset protection scheme that I announced in January has played a vital role in supporting confidence in financial markets. Let me remind the House of the key features which I set out then. It provided insurance against losses arising on a pool of bank assets and, in return, the banks paid a fee in the form of shares. The effect of the scheme is to strengthen the capital position of any bank in the scheme but, of course, this carries a risk of exposure for the taxpayer. The scheme was open to all major UK banks. In the event, improved market conditions meant that only two banks decided to participate. Since then, further improvement in market conditions means Lloyds has been able to develop a better plan. It does not now need to participate in the scheme, which will significantly reduce the cost and exposure for the taxpayer.

I will now explain in detail our proposals to better restructure the banks and make them stronger. I turn first to Lloyds. Following the recapitalisation last October, the Government owned 43 per cent of the bank. In March, we reached an agreement in principle with Lloyds on its participation in the scheme. This would have increased, through the fee, its capital by over £15 billion, increasing the cost to Government and increasing our stake in Lloyds to 62 per cent. We agreed then in principle to insure £260 billion of assets, giving us a very large contingent liability. But now that market conditions have improved, we have agreed a better proposal for Lloyds, to bring in substantial private capital and reduce taxpayers' exposure.

So, Lloyds has announced today that it will raise £21 billion in the open market. This capital raising is fully underwritten by commercial banks. As a shareholder, the Government have the option to take up part of the newly issued equity. If we did not do so, the value of the existing taxpayer shareholding would be diminished. So, to protect the value of our shares, we have decided to take up our share of the new capital, investing £5.7 billion net of an underwriting fee.

By raising capital in the markets, Lloyds will begin its transition from state support to private finance, and no longer need the insurance of the asset protection scheme. Because Lloyds has benefited from the existence of the scheme since March, it has agreed to pay the Treasury a fee of £2.5 billion and to reimburse our costs.

Today's decisions make Lloyds a stronger bank and provide better value for the taxpayer, ending exposure through the insurance scheme, with a substantial fee in return for the insurance provided to date and a substantial capital contribution from the private sector, while maintaining our shareholding at 43 per cent.

I turn to the Royal Bank of Scotland, which is a bigger bank than Lloyds, with a more complex balance sheet, and greater exposure to losses, mainly due to its purchase of the Dutch investment bank ABN Amro. Under February's agreement in principle, the Government would insure £325 billion of assets through the asset protection scheme, as well as providing an additional capital injection of £13 billion, a second tranche of capital amounting to £6 billion, and a further £6.5 billion worth of capital support through additional shares issued to pay the fee. Together, this would have increased RBS's capital by £25.5 billion, taking the Government's stake to 84 per cent.

Before we could reach a binding agreement, we needed to carry out due diligence on the assets, and ensure that the final terms were consistent with emerging European Commission guidelines. The restructuring guidelines were published in July, following extensive work with the UK and other countries. We and the FSA have now also completed due diligence work on the RBS balance sheet. As a result, we are making a number of changes to the terms of the scheme, which will improve incentives and better share risks with the private sector.

While market conditions have improved, RBS still needs to do more to be able to stand on its own feet, so we will continue with our plan to invest £25.5 billion of capital into RBS, but there are three key changes. First, there will be a £43 billion reduction in the pool of assets covered by the insurance scheme, reducing the Government's contingent liability. Secondly, the first loss on these assets—payable by RBS—will be increased from £42 billion to £60 billion, further protecting the taxpayer. Thirdly, in return, RBS will pay an annual fee of £700 million for the next three years and £500 million per year thereafter, giving it an incentive to leave the scheme as conditions improve, and when it does leave the APS, it must have paid a minimum fee of £2.5 billion or 10 per cent of the actual capital relief received.

To reflect the increase in the first loss, amounting to £18 billion more payable by RBS, we will no longer require RBS to give up its tax losses, which it estimates at between £9 billion and £11 billion. In the unlikely event of a severe downturn, it may be necessary to provide up to £8 billion of contingent capital, but this will only be triggered if there is severe stress, taking its core capital ratio below 5 per cent. Again, in return for this, RBS will pay an annual fee of £320 million for as long as the contingent capital is available.

[LORD MYNERS]

In the case of RBS, the overall level of government support will remain broadly the same as announced in February, but this revised deal is better structured, with better risk sharing and greater incentives to exit. There is a higher first loss payable by RBS of £60 billion, up from £42 billion. There are better incentives, with a fee of £700 million for three years and £500 million thereafter, and fewer assets to be insured—£282 billion instead of £325 billion. I will also provide the House with full details of the operation of the scheme when the final agreement is signed and approved by the Commission.

As part of these restructured deals, we are pushing forward with reform at these banks with improved lending and remuneration policies. Both Lloyds and RBS will be in a stronger position to continue lending. Lloyds will increase lending capacity this year and next, with an additional £11 billion for businesses and £3 billion for homebuyers in each year. RBS will continue to meet its lending commitments of £25 billion this year and next. Both will publish customer charters on good practice on SME lending, increasing transparency and improving loan conditions for business customers.

On pay, all major retail and investment banks in the UK need to meet the G20 principles and FSA rules, so that bonuses have to be: transparent, variable, and with no multi-year guarantees; between 40 and 60 per cent deferred over a number of years, not paid immediately; and subject to claw-back, to ensure pay is aligned with long-term performance. However, we have agreed with RBS and Lloyds that they will go further than this. For this year, there will be no discretionary cash bonuses except for staff earning less than £39,000 a year. In addition, the executive boards of both banks will have their bonuses deferred in full until 2012. This goes much further than any G20 agreement and further than any other banks in the world.

I will continue to strengthen the supervisory regime, building on my proposals in July by adopting the recommendations of the Walker review on corporate governance for banks, reforming the mortgage markets, and legislating to make banks put in place “living wills”, as well as enhanced powers and objectives for the FSA, to further strengthen regulation.

I believe these steps are better for the taxpayer, better for the banks and better for the economy. As a result, the likely cost to the taxpayer and the risks faced by the public finances have reduced markedly. The total assets protected have reduced by over £300 billion, there is more private sector investment and the fees received are better structured. I also expect, subject to wider factors, to revise downwards the provision for financial sector interventions in the Pre-Budget Report.

As I said in my statement in July, our second objective is to encourage greater banking competition in the high street and for small and medium businesses. Since the financial turmoil started in 2007, the banking industry has become more concentrated in most advanced economies. But over the course of the year we have been working with the Commission to agree on how to restructure the banks while meeting state aid rules. For Northern Rock, I have already set out my intention to

split the bank into two separate companies, and we now have Commission approval for this. This will mean less capital support is needed to keep Northern Rock lending, and when the time is right, it will facilitate a return to the private sector. Lloyds will sell Cheltenham and Gloucester, the Intelligent Finance internet bank, the TSB brand, Lloyds TSB Scotland, and some Lloyds TSB branches in England and Wales—altogether more than 600 branches by 2013. RBS plans to sell its insurance businesses, including Direct Line and Churchill, as well as its commodity trading arm and its card payment processing operation. It will also divest more than 300 branches across the UK by 2013.

Together, these businesses could potentially amount to about 10 per cent of the retail banking market in the UK, and in each and every case we will insist that these institutions should not be sold to any of the existing big players in the UK banking industry. So, Lloyds and RBS will each be required to sell their retail and SME businesses as a single viable package to a smaller competitor or new entrant to the market, and this, together with Northern Rock, will potentially create three new banks on our high street in the space of five years. This will increase diversity and competition in the banking sector, giving customers more choice and better service.

The financial services sector will remain an important part of our economy. Yesterday’s job losses, announced by RBS, are a reminder that for many employees these are very difficult times. We will do everything we can to work with the banks to help find new jobs for those affected. I believe my proposals today will ensure that we have a strong and vibrant financial services sector in the future. This will mean stronger and safer banks better able to support the recovery and more competition and more choice for the people who use them. I commend this Statement to the House”.

4.22 pm

Baroness Noakes: My Lords, I thank the Minister for repeating the Statement made by the Chancellor in another place. The Minister made it sound like some sort of triumph for the Government, but the truth is very different. A year ago the Government came to Parliament to say that they were injecting £37 billion of taxpayers’ money in order to recapitalise RBS and Lloyds. In their usual hubristic way this was presented not only as saving the banks but also saving the world. Thirty-seven billion pounds was an almost unbelievable sum of money last year. Since then, of course, we have become almost inured to the scale of the banking bailout against the background of government debt scheduled to rise to £1.5 trillion, with £175 billion to be borrowed this year alone. But today the Government pop up to say that, “By the way, we are putting another £39 billion of taxpayers’ money into these two banks”. That is £13 billion more than the worst case provided for in this year’s Budget Statement. Even more taxpayer cash for the banks is the true story of today’s announcement.

Another story is muddle and confusion around the asset protection scheme first announced last January. We were told that both Lloyds and RBS would participate

in it and that it would cover nearly £600 billion of assets. As the months passed it became increasingly clear that the Treasury's grand design was not roadworthy. It cost too much, was too complicated and involved too much extra government equity. Lloyds has been trying to wriggle out of it for some time and today's announcement confirms that it has succeeded. Who could blame it? The release fee of £2.5 billion might sound like a large sum of money but Lloyds made it very clear today that it was fantastic value for money compared with staying in the asset protection scheme.

Poor old nationalised RBS did not have the flexibility available to Lloyds and it has been stuck with putting £280 million of assets into the scheme and increasing the government shareholding to 84 per cent. I know that the Minister likes to pretend that RBS is not nationalised, but in my party we believe in calling a spade a spade. On the other hand, RBS appears to have done rather well out of its negotiations with the Government. It has completely renegotiated its terms of entry into the asset protection scheme. It has managed to get its tax status revised, whereby it now looks as if the taxpayer will not see much in the way of corporation tax receipts for some time to come. Can the Minister give further detail about this tax deal? Why did the Government agree to it and what is its cash impact?

Much of the rest of today's announcements show that the Government have been playing catch-up with my party. A week or so ago, my honourable friend George Osborne proposed that the banks owned by the taxpayers should not pay out cash bonuses except for lower-paid staff and with a cap of £2,000. Mr Liam Byrne, the Chief Secretary to the Treasury, gave an extraordinary response and said that our policy would, "water down the rules we've put in place",

and that it was "unworkable". Even more extraordinary is the fact that today's announcement shows that the Government are adopting our policy. The *Evening Standard* is even reporting—based, I am told, on government briefing—that the bonuses will be capped at £2,000. Will the Minister confirm that and will he say what brought about this damascene conversion?

We welcome the competition measures which are a part of today's announcement. Our clear policy has been to ask the Competition Commission and the OFT to carry out a review of the impact of consolidation on competition in the banking sector.

Mr Stephen Timms said last April that my party was,

"isolated and on the wrong side of the argument".

This morning, the Lobby briefing reported that the Chancellor told the Cabinet that there was not enough competition among banks. Well, all I can say is that I am glad that the Government are now on the right side of the argument. Will the Minister now admit that the Prime Minister was wrong to promote the Lloyds/HBOS merger and that the Government were wrong to bypass competition law at the time?

The sad thing is that the Government have not come to this position by themselves. They have had it imposed on them by a Commissioner in Brussels determined to make her mark in the dying days of the current Commission. For our part, we are not convinced

that it is enough, and our policy will remain that a competition review for the UK banking sector remains essential.

Of course the Statement makes the usual obeisance to restoring lending with a few embellishments such as a customer charter, but businesses, particularly SMEs, are clear that banks either do not want to lend to them or will do so only at a high cost. The banks have been trying to present the lack of lending as a lack of demand, but that ignores the evidence to the contrary from small and medium-sized businesses the length and breadth of our country.

The plain fact is that the Government have failed to restore sufficient credit to the economy. The latest evidence is that the flow of lending to the business sector has fallen for the seventh consecutive month. It is no surprise that our economy, uniquely among the major economies, remains in recession when our businesses cannot get the credit that they need.

The Government's bewildering array of schemes has also delivered little. What is the point of a £5 billion scheme to deliver trade credit insurance if it provides only £13 million? What is the point of a £2.3 billion automotive support scheme if nothing actually gets paid out from it?

Indeed, the question that really cries out to be answered from today's Statement is: what is the point of this Government?

4.29 pm

Lord Newby: My Lords, we are grateful to the Minister for making this Statement, particularly as it is in reality his Statement, rather than the Chancellor's. He is the man who negotiated this and, therefore, it is fortunate for your Lordships that we have an opportunity to ask him questions, because I suspect that he, more than anyone else in government, knows the answers.

My first comment on the Statement as a whole is the extraordinary scale of all the figures involved. Possibly the smallest figure involved is £700 million. After a while, one comes to believe that the figures are in the normal run of one's daily business. I suspect that in the negotiations, and more generally, the banks almost lost sight of the scale and implications of the recklessness of their previous management. We are dealing in figures which, if we were talking about health, education, aid or any other area of government, would be deemed extraordinarily large, but here they are tossed off as though they were commonplace.

The Statement is in two parts. The first deals with the Asset Protection Scheme and the way in which the banks will continue to be run, as though there were no restructuring. The second deals with the restructuring. As far as concerns the Asset Protection Scheme, the change in the detailed arrangements makes sense for RBS. I have some concern about the provision of £8 billion—again, the figure is tossed in as though it were of relatively little consequence—which it might be necessary to provide in the event of a severe downturn. This is a significant additional figure given everything else that has been done with RBS, and raises issues about the ongoing underlying health of RBS. Will the Minister tell us more about the stress tests that were undertaken by the FSA, which have caused the

[LORD NEWBY]

Government to make this significant additional figure available? It is worrying that, despite everything, RBS may still need an additional £8 billion. How likely is that, and on what basis has the decision been taken?

The Statement then talks about the lending levels of the banks, which the noble Baroness mentioned. I share her concerns. RBS is going to increase its lending capacity, but it does not say that it will increase its lending levels. The Statement says that RBS will, “continue to meet their lending commitments”.

However, RBS’s briefing earlier today said that it would continue to “work towards” meeting its lending commitments. There is a big difference, because it is not meeting them. The reason that the banks give, as the noble Baroness said, is that there is no demand. The reason that businesses give is that the banks are piling on charges, fees, requirements for additional collateral and other charges and requirements that make it practically impossible for them to accept the additional lending even though they want it. The banks are still in denial about the level of pent-up demand for loans from small and medium-sized businesses.

The Statement then talks about bonuses. I know that the Minister has been fighting in the trenches on this matter. However, it is difficult to believe that what is in the Statement is a revolutionary development. All that is happening—even though it has taken some time to get to this point—is that bonuses are being paid later, or in a different form from what was originally envisaged. There is no suggestion that the total quantum of potential benefit available under bonuses is being reduced, and it is that quantum of benefit that causes so much anger among the public.

I turn to the restructuring. The Statement is a play in two acts when it deals with the main banks, but there is a little intermezzo in the middle into which Northern Rock is inserted. The Minister points out that the Government intend to split the bank into two. The Statement does not say that the Government also intend to sell off the good bit of Northern Rock, presumably under a quick timetable. We on these Benches are concerned about the pace at which the Government plan to sell off part of Northern Rock. We believe that they may not get the best deal and that the timescale is politically driven. Will the Minister reassure us that the Government have their eye on the bottom line rather than the headline when it comes to selling the good bit of Northern Rock?

With regard to the other two banks, the Government announce what they are doing as though it is a result of their decision-making. However, as the noble Baroness said, the truth is that it is the result almost exclusively of decisions taken in Brussels. Unlike the noble Baroness, we do not think that this is necessarily a bad thing, not least because in our view, if it were left to the Government, no restructuring of these banks would currently be planned. Although we have some concern about the timetable, in that the parts of the two banks that are to be hived off should not be sold too soon or in a fire sale, it seems that the Commission has beneficially stepped in here in a way that the Government might well not have done. I know that to save her life the noble Baroness cannot admit that this might be a good thing, but on these Benches we think that it is

probably a positive development. However, regarding the four-year period that has been proposed before the sell-offs can take place, can the Minister assure us that there will not be any political drive to sell off parts of these banks prematurely before the election to prove a point when the Government will almost certainly get poor value for money from any sale?

Finally, the Statement does not deal with what we consider to be the most fundamental issue concerning the state of the big banks going forward—namely, the extent to which the whole gamut of activities from utility to casino can be carried on under one roof. It does not address the issues raised by the Governor of the Bank of England or the arguments that are raging about the desirability or otherwise of splitting the banks on that basis.

The Chancellor made it clear on the radio this morning that the Government remain the lender of last resort to the banking sector despite these changes today, and that, if there were another crisis, the Government would still have to step in in respect of not only, say, Barclays’ deposit-taking but its entire portfolio of activities. Therefore, does not the Minister agree that it would be appropriate to expect the banks to pay some insurance premium for the cover that they are still recovering from the Government?

Lord Myners: My Lords, I thank the noble Baroness, Lady Noakes, and the noble Lord, Lord Newby, for their contributions and observations. The noble Baroness is on the horns of a dilemma. Her comments are in many cases contradictory, and I shall point out some of them in the time left available to me. Let us remind ourselves that the Conservative Party rejected the support provided to Northern Rock: it was not willing to step in and provide that support. It was hesitant about the recapitalisation in October—it simply did not know how to react to it—and it was totally confused by the asset protection scheme. Having listened to Mr Mark Hoban on the “World at One” today, the Conservatives seem to me to remain confused by the further refinements to the asset protection scheme as announced today. We have a picture of inconsistency and contradiction.

The noble Baroness suggests that the extra money invested exceeds the amount that we indicated in the Budget as a worse-case scenario. I wonder whether she has forgotten some of her professional training at the auditing firm of KPMG, because importantly we are investing here to acquire assets, not losses. The numbers are big, as the noble Lord, Lord Newby, said, but the important numbers are coming down: the contingent liabilities are coming down; the first losses are going up but the Government’s exposure is coming down. I have said that the Chancellor of the Exchequer is confident that in the PBR he will give the House good news about reduced public exposure to the losses arising from these schemes. The schemes have worked: they have stabilised the banking system. The share price of Lloyds has quadrupled since January as a consequence, and that is why we are being paid £2.5 billion for an insurance policy on which no claims have been presented.

The noble Baroness again completely contradicted herself by saying that Lloyds could not wait to get out of the insurance scheme because the pricing was punitive.

If it was punitive, I make no apologies because I have always fought to ensure that the deals with the banks are done on terms which deliver good value to shareholders. The fact is that it has withdrawn from the scheme because it believes that it is in its shareholders' interests and it is able to raise private capital. Goodness me, I thought that the Conservative Party was in favour of private capital. Here we have a solution which brings private capital to bear and the noble Baroness cannot bring herself to congratulate us on securing an excellent outcome. The noble Baroness refers to Lloyds wriggling out of the scheme. Far from it, Lloyds has found an elegant way to recapitalise itself through markets which are willing to provide capital, plus an innovative scheme which we have structured with it which involves a number of novel elements and which is much admired—I hang my head in shame here—by many investment bankers.

The noble Baroness inquired about the tax deal. The tax undertakings offer taxpayers uncertain future revenues at an unknown time. We had to agree to that because RBS could not afford any other way of paying. That was why I put the tax agreement into the structure. It no longer has to do that, so removing the tax undertakings from the deal in exchange for a higher first loss, increased transparency, and a lower pool of risk assets covered has meant better value for the Exchequer and far more visibility and transparency in the scheme.

The noble Baroness chooses to take her financial information from the *Evening Standard*. I can assure her that bonuses have not been capped at £2,000. We have been very clear: cash bonuses for employees on the front line earning £39,000 or less and no cash bonuses for any other employees in RBS or Lloyds.

The noble Baroness seems to forget our Competition White Paper which was issued before the Summer Recess. It clearly stated that we believe that there needs to be more competition in the British high street for banking services. I remind the noble Baroness that competition has declined over 25 years since the Conservative Party encouraged the reckless demutualisation of building societies.

I say to the noble Lord, Lord Newby, that the numbers are large but they are improving. The contingent capital will earn us a generous fee of 4 per cent per annum. Again, those are excellent commercial terms for the Government. The details of the stress test were detailed by the FSA in May. It is called the 1980s extreme U test. As I have already mentioned, the lending agreements which RBS and Lloyds are continuing to maintain will provide what is necessary to support the UK economy. The banking system is stabilised, stronger, more commercial and better able to meet the needs of its customers as a result of this extraordinarily good package which we have been able to announce today.

4.42 pm

Lord Lamont of Lerwick: My Lords, I thank the Minister for this comprehensive and highly significant Statement. However, is the reality not as he stated in his initial remarks that the banks do not need the insurance scheme, but that they cannot afford it and

that that is why they have had to restructure it? While it is indeed welcome that the pool of assets to be insured is to be considerably reduced, is there not a danger that the banks carrying a higher proportion of the risk may not recognise the full extent of the impairment of bad loans their books? If that is not faced up to, we will be left with a problem that is not being solved and with a problem with which this crisis began? Although more competition in the banking sector is very much to be welcomed, are not these measures, which are being forced on the Government, an absolutely tiny mouse compared with the elephant in the way of competition which the Government put there when they facilitated the merger of HBOS and Lloyds with disastrous results?

Lord Myners: My Lords, I must disagree with the noble Lord. Quite clearly, Lloyds is able to exit the APS by raising some £13.5 billion of new equity from its shareholders, plus converting tier 2 and innovative capital instruments into a contingent capital instrument which has allowed it to exit the scheme. It has done so with its own resources and with its own advisers, supported by the Government and endorsed by UKFI. It could certainly afford to participate in the APS, but it judged that it no longer needed the protection that the APS afforded. I believe that one of the reasons was that the management of Lloyds has a much better grasp of the assets that it acquired when it merged with HBOS and much better judgment about the probability of default and any loss in the event of default.

Work to support the announcement made today in respect of Lloyds and Royal Bank of Scotland has clearly required extremely detailed review by the FSA, by the Treasury and by our own advisers. I can say with a degree of confidence that we know much more about the assets of Royal Bank of Scotland than the old RBS knew about the assets for which it was responsible. There was an intolerable failure of corporate governance by that board that was a consequence of abominable leadership by the chairman and chief executive of that company. But that is now behind us—we have new management in that bank which we are supporting and a much better knowledge of the assets held. Furthermore, the underwriters to the Lloyds issue will have looked very carefully at the quality of the Lloyds asset book before entering into the largest equity underwriting that this country has ever seen. While the noble Lord raises perfectly appropriate and correct questions, I want to reassure him that there is a reality in the view that the management of RBS and Lloyds now have about their businesses.

Baroness Turner of Camden: My Lords, I thank the Minister for repeating the Statement. However, I am most concerned about the headlines screaming that thousands of people are being made redundant by RBS. Quite frankly, the management must surely realise that making all these people redundant is no help to the economy. These people cease to be taxpayers and become recipients of benefits. Really, management should not be encouraged in any way to get rid of staff—they should endeavour to keep them wherever possible.

Lord Myners: My Lords, I am grateful to my noble friend for her observation. It is of course worth noting that had we not stepped in to support Lloyds and the Royal Bank of Scotland, those banks would have failed and there would have been no jobs. The 3,700 job losses announced yesterday by Royal Bank of Scotland are deeply regrettable. Nevertheless, it is the view of the management of RBS that the vast majority of those job losses will be covered by natural wastage and there will be little, if any, need for compulsory redundancy.

Lord Shutt of Greetland: My Lords, I want to refer to the latter points in this huge document, which contains big numbers that most of us have difficulty with. Some of us can understand the idea of the three new banks and we see that the die is not yet cast. We recall Northern Rock and Cheltenham & Gloucester in their former existence as building societies. The Minister referred to the disastrous demutualisation process and the fact that every demutualised building society is no longer independent. Also in the list of names is the TSB. It is difficult to call what happened to it many years ago “demutualisation”, but it was the precursor to the demutualisation. Of course, the TSB was an orphan, yet the Government took the money. It is suggested that these three new banks, which will be set up some time before 2013, will be new entrants to the market. Is there not now an opportunity for the Government to create one modern mutual out of those three new creations?

Lord Myners: There is nothing that I would like more than for a new mutual to be created, but I cannot find a way to do that which would not represent a substantial subsidy from the taxpayer to the members of that new mutual. It would involve a gifting of value to the members. If noble Lords or others can come up with a constructive way to do that, I assure them that I will give it active consideration, but I have struggled to find a way in which it would be possible to create a new mutual on the scale suggested.

That said, we will of course continue to support the concept of mutualisation, as we have through recent legislation. There is a real prospect of brand names such as TSB, Williams and Glyn’s and Cheltenham and Gloucester once again reappearing on the British high street. That is not just due to the EU. I salute Commissioner Kroes for what she has done in promoting competition—another great benefit that comes from our partnership as a member of the wider European community—but there are many aspects of this arrangement which the Government have required. In particular, the restriction that those businesses must be sold as a package, rather than broken up; the restriction on existing large players buying any of those assets; and a restriction on Lloyds buying any new business for the next three years have come not from Brussels, but from London, as part of our contribution to increasing the diversity, strength and range of competitive operators in the British banking system.

Lord Elystan-Morgan: It must be clear to everyone here that the European Competition Commissioner must have played an impactful and substantial role in

the ultimate package decided on. With his usual commendable generous candour, can the Minister indicate the distance of travel from when the Treasury came very near to a meeting of minds with Lloyds and RSB and the ultimate result, after the impactful intervention of Ms Neelie Kroes, the Commissioner? It would be of great assistance if he could give some idea of how vast that distance is.

Lord Myners: The Commission spelt out its views on state aid in the late spring. When we announced the asset protection scheme in January, we said that it would be conditional on the Commission’s policy position. Of course, the Commission has engaged actively in state aid in Germany, Holland, Belgium, Spain and here in the United Kingdom. We have had extensive and lengthy negotiations—I was speaking to Commissioner Kroes late on Sunday evening to cross the final “t”s and dot the final “i”s—and the outcome that we have been able to secure is very close to what we regard as good for the British system of finance, namely well capitalised banks, viable but with every prospect of new competitive entrants. That will be as a result of that outcome, but also because of new entrants such as Tesco, Metro Bank and lenders from the Far East and Scandinavia coming to the UK market and offering us the prospect of reversing a 25-year trend in competition in the high street, which started under the Government of the party opposite.

Lord Forsyth of Drumlean: My Lords, perhaps the Minister can help me. If the Government’s position is that it is in the public interest to have more competition in the high street in the banking sector and to break up the Lloyds Banking Group, does that mean that the Government think that the Prime Minister made a mistake in agreeing to waive the competition rules to allow the merger between Lloyds and HBOS, which had such catastrophic consequences not just for the shareholders of Lloyds but also for its employees?

Lord Myners: Much as I would like to help the noble Lord, Lord Forsyth, I find it very difficult to conclude that those transactions had catastrophic consequences compared with the counterfactual, which would have been the failure of those banks. Remember that back in October, we got very close to a point where the cash machines would not have operated. In HBOS and Royal Bank of Scotland, that was particularly acute.

As for Lloyds, the Government concluded, and made representations to this effect, that a merger of Lloyds and HBOS, if it was the wish of the shareholders of those two companies, would be appropriate in the interests of financial stability. However, we made it clear that that would be conditional upon any EU remedies required in connection with state aid. We understood that there would need to be remedies from Lloyds, but it was a decision by the shareholders of Lloyds to merge with HBOS. I recollect that 97 per cent voted in favour of so doing. This was not a decision made by the Government; the Government merely enabled the shareholders to make that decision if they judged it was in their best interests. They perhaps regret it, but that is where we are now.

Baroness Ford: My Lords, I welcome the Statement and support the action that the Government are taking in this second, very important, phase of activity. It is greatly to be welcomed that we are about to get into a period where, we hope, we can have more competition in the retail and corporate banking sectors. Given the ongoing support for the Royal Bank of Scotland implicit in the Statement, it feels as if it is still a bank that is too big to fail. Can the Minister tell us why the Government still seem so opposed to decoupling investment banking from retail banking? The Governor of the Bank of England seems to have changed his mind on that. Can the Minister tell us why the Government have set their face against it?

Lord Myners: My Lords, the decoupling of investment banking from retail banking has never been achieved anywhere. There is logic to an integrated bank. The issue is how we ensure that the investment bank does not place the retail bank at risk. This is something that the Conservatives have not grasped, because last week Mr George Osborne was talking of limiting bonuses of £2,000 to retail banks. When is he going to understand that the problem did not arise with the retail banks but with the investment banks? Perhaps because he was speaking in Canary Wharf he was unwilling to be honest and upset people by suggesting it was the investment banks. I have no difficulty in doing that.

We are going to ensure that we never see a repeat of this situation by requiring much more capital behind the riskiest activities, higher liquidity and more robust regulation. I noted what the Governor of the Bank of England said in Edinburgh. I am still wrestling to try to reconcile it with what he said to the Treasury Select Committee in response to a question from Viscount Thurso, when he said that it would not be possible to separate investment banks from retail banks. He has changed his mind on that. I have not yet been able to find where he has explained why, but I am sure he has found good reasons for doing so. We do not believe that this is an appropriate and necessary line to pursue.

Lord Naseby: My Lords, I declare an interest as treasurer of the Lords and Commons Tennis Club, which banks with Lloyds, as do I, and as a modest shareholder. The truth of the matter is that it was not that 97 per cent of the shareholders of Lloyds really supported the HBOS amalgamation; it was simply that the Prime Minister of the day pinned the chairman of Lloyds in the corner in the best traditions of Chief Whips in another place and said, "We need your support. We need your help. We need you to see us through this difficult situation", and he responded. Does it not short-change that bank, which now, according to the Minister, has agreed to £11.6 billion in business loans and £3 billion in private loans, to find that there is a rights issue and that the Government are getting it half-price because they are requiring Lloyds to provide £2.5 billion, which is, roughly speaking, half of what the rights issue would cost any other shareholder in Lloyds?

Lord Myners: My Lords, before I became a Minister, I was at the occasion when Sir Victor Blank raised this subject with the Prime Minister. It was an event hosted by Sir Win Bischoff, who was then chairman of Citigroup

and has now gone on to become chairman of Lloyds. My recollection of the situation, and indeed of Sir Victor Blank's earlier conversations with the Prime Minister, is that he was absolutely gagging at the prospect of acquiring HBOS. There was no need to hold him back at all. He absolutely was not pinned into a corner, not least because he is about a foot and a half taller than the Prime Minister and I do not think that the Prime Minister could have pinned him into a corner.

On the terms, not taking up the rights would have cost us about £2.2 billion of diluted value. That would have been absolute folly, so I had no hesitation in advising the Chancellor that we should take them up. We own the same shareholding in a much stronger, better capitalised bank as a consequence. It is for others to express views on whether £2.5 billion was the right fee to charge for an insurance policy on which no claim had been made. I am quite content that we got £2.5 billion for the taxpayer.

Lord Acton: My Lords, I understood my noble friend to say that the Royal Bank of Scotland would divest itself of 300 branches. If I am correct, does a thread link those 300 branches and how many branches will the Royal Bank of Scotland be left with after those 300 have gone?

Lord Myners: My Lords, from recollection, I believe that the Royal Bank of Scotland will be left with approximately 2,400 branches. The branches that are being divested are the Royal Bank of Scotland branches in England and the NatWest branches in Scotland—plus, importantly, a number of commercial and service centres that are necessary to provide the infrastructure to make those branches a viable business collection.

Lord Northbrook: My Lords, the Minister said in the Statement that the Government had to carry out due diligence on RBS's assets. No mention was made of similar government due diligence on the assets of Lloyds. In view of the widespread concern about the value of assets of HBOS in particular, has this been carried out and, if so, what was the conclusion?

Lord Myners: My Lords, it was quite expensive to carry out due diligence on the APS. We have used a number of advisers but have ensured that the full cost incurred by the Government has been passed back to the banks. Indeed, Lloyds will pay its share of the work that was done to set up the APS, even though it will not participate in it. We have carried out due diligence on the assets of Lloyds TSB, as it was, HBOS and the Royal Bank of Scotland. As I said, we know more about the assets of those banks than their boards of directors did. On the question of whether Lloyds carried out sufficient due diligence before the Halifax transaction, I recollect that Mr Eric Daniels told the Treasury Select Committee that he would like to have done more but then revisited his conclusion and said that he had done enough.

Lord Whitty: My Lords, the Minister may recall that when we suspended the competition rules and, indeed, when we went ahead with the Lloyds/HBOS

[LORD WHITTY]

merger, I was concerned that we were limiting competition for consumers and small businesses. I therefore welcome the impact of this Statement and the fact that we will increase competition as a result of the Government's latest interventions. However, I regret that this involves a restriction on the number of high street branches.

The Minister touched on another point when he said that we now know more about the banks' assets than their boards of directors originally did. Will he expand on his plans for changes to the governance of the banks? Whether there are five, seven or eight banks on the high street, if the same kind of people with the same myopia run our banking system in the future, we will be back with very similar problems.

Lord Myners: My Lords, given the very limited time available, I will say simply that I have high hopes for and expectations of the report on corporate governance from Sir David Walker later this month. He will lay down very clear calls for action from institutional shareholders. It is very frustrating that we as a Government are fighting hard on the bonus issue when the institutional shareholders are so supine in protecting the interests of their own customers, savers and investors.

Welfare Reform Bill

Third Reading

5.05 pm

Clause 28 : Exemption from jobseeking conditions for victims of domestic violence

Amendment 1

Moved by Lord McKenzie of Luton

1: Clause 28, page 35, line 24, at end insert—

“() In section 37(1)(c) of that Act (regulations subject to the affirmative resolution procedure), after “or paragraph” insert “8B or”.”

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My Lords, in speaking to Amendment 1, I shall speak also to the other amendment in this group, Amendment 8. However, with the leave of the House, before addressing this first amendment, I should like to return to some matters that we debated earlier.

On Report, I said that we would consider further the Government's position to require those lone parents with a child in receipt of disability living allowance to undertake work-related activity. This matter was raised by the noble Baroness, Lady Thomas. Work-related activity is an important part of our strategy to move lone parents from inactivity on benefits to an expectation of actively preparing for the time that they are able to work, but we are determined that lone parents must be able to balance these activities with family life. We have already announced that lone parents will be able to fit the work-related activities around school or free

nursery hours and that no lone parent with a child under the age of three will be required to undertake such activities.

We realise that lone parents caring for younger children who receive disability living allowance may find fitting work-related activity around their caring responsibilities more difficult. We have already introduced a number of safeguards to ensure that lone parents can balance these responsibilities. After careful consideration, we have now decided to ensure that lone parents on income support who have a child under the age of 16 and in receipt of any rate of care component of disability living allowance will not be required to undertake work-related activities. Of course, they will still be offered full support to help them to prepare for work, which they can take up on a voluntary basis. As it was previously our intention that the exemption relating to children in receipt of the middle and highest rate DLA care component be dealt with in regulations, it is our intention that this procedure be applied to cover the extension to children in receipt of the lowest rate care component of DLA.

As regards Amendment 1, Clause 28 inserts a new paragraph in Schedule 1 to the Jobseekers Act 1995, which will introduce an automatic 13-week exemption from the jobseeker's allowance conditionality rules for victims of domestic violence. This clause, which was inserted in the Bill following a government amendment on Report, includes provision for secondary legislation to deal with more detailed issues, such as the exact definition of what constitutes domestic violence and the circumstances in which the exemption will be applied.

In considering this amendment, the Delegated Powers and Regulatory Reform Committee expressed concern that regulations under this new provision would be subject to the negative procedure. It was particularly concerned that the power to define what is meant by “domestic violence” should be subject to appropriate parliamentary control. Amendment 1 will ensure that the affirmative procedures apply to all regulations made under this new provision.

Amendment 8 corrects a drafting omission and will ensure that orders made under Clause 47 will be made by way of statutory instrument. Noble Lords will recall that this clause covers the power to remove the exclusion of community care services from the right to control provisions. Clause 48 provides that such orders will be subject to the affirmative resolution procedure in Parliament, the Scottish Parliament and the National Assembly for Wales. I beg to move.

Baroness Thomas of Winchester: My Lords, I thank the Minister most warmly for this welcome amendment. He and his whole team have bent over backwards to meet our concerns about lone parents on income support who have a child in receipt of the lower rate of the care component of DLA falling within the scope of mandatory work-related activity. His acknowledgement that it could be very difficult for some of those lone parents to undertake that mandatory work-related activity is much appreciated. We look forward to the regulations in due course.

As I have mentioned, the Minister's whole team has been helpful and I pay tribute to it, particularly to its leader, Andrew Latto, who has been helpfulness itself

in answering the silly questions that I constantly ask. We could not have had better service, so I thank him most warmly.

Baroness Hollis of Heigham: My Lords, I, too, thank my noble friend and the officials in the Box, because I know how difficult it can sometimes be to change policy quite so late when you are required to involve parliamentary counsel, even if you have been persuaded by the arguments. The fact that this is being carried by regulations gives everybody, including the Government, welcome elasticity in the system. I am grateful. There were many concerns about the Bill at the beginning. Like other Members of this House, I know just how hard my noble friend has worked to ensure that it has met the proper concerns of all your Lordships. We can confidently say as a result that the Bill goes forward to help lone parents to engage in the labour market without their children having in any sense to endure a penalty because of the commitments that their mother is required to undertake. I am grateful for my noble friend's amendment, which is splendid.

Baroness Turner of Camden: My Lords, I, too, thank my noble friend for the amendments and his statement. I, too, raised the matter of the pressure that might be exerted on lone parents to indulge in work-related activity if they were not in a position to do so—because they had a disabled child, for example. My noble friend's statement covered the concerns that many of us raised and I am grateful for it.

Lord Kirkwood of Kirkhope: I concur with everything that has been said in relation to the Minister's statement on disability living allowance. It was a tricky one: Ministers must have had some difficulty persuading the technicians, not to mention the Treasury, about the definitions. I think that this will affect a relatively small number of people, but, my goodness, it will make a transformational difference to those whom it does. It could not have been an easy battle and the Minister deserves the credit that he has been given today.

On domestic violence, the 30-week exemption is extremely welcome. That was again hard fought for in a very constructive Committee stage. However, I hope that the 30 weeks will allow some discretion. I do not think that many cases will need more than half a year, but there may be some. As a former divorce lawyer in a previous age, I know that some family circumstances mean that domestic violence cases can become intractable and go on for years, so a little discretion at the edges for some of the advisers dealing with these tricky decisions would be welcome. I hope that the Minister will bear that in mind. I am absolutely in favour of the amendment as it stands, but if he could assure the House that some flexibility might still be available in exceptional circumstances, to make sure that we protect people in danger of some really vicious violence at the hands of their former spouses and partners, it would be welcome.

Lord McKenzie of Luton: My Lords, I thank every noble Lord who has spoken in support of the amendment. I also appreciate their thanks to members of the Bill team—I think that they will have chance to do that more fully in a little while. The noble Lord, Lord

Kirkwood, asked whether there would be additional discretion in relation to the domestic violence provision. Yes, there is.

Amendment 1 agreed.

5.15 pm

**Clause 31 : Contracting out functions under
Jobseekers Act 1995**

Amendment 2

Moved by **Lord McKenzie of Luton**

2: Clause 31, page 36, line 33, after "paragraph" insert "5A or"

Lord McKenzie of Luton: I shall speak also to the other government amendments in this group. The amendments will place in the Bill the reassurances that I gave on Report in relation to drug testing and mandating to treatment. The main thrust of the amendments deals with voluntary and mandatory rehabilitation plans, drug testing and the replacement of the substance-related assessment with two assessments. The remaining amendments are consequential and I shall deal with them at the end. In making the amendments, we have taken account of the opinions both of drug professionals who work on these issues and, of course, of noble Lords, with their great experience.

Mandating individuals to medical treatment is not going to work for those who are not ready, but doing nothing is no longer an option, and problem drug users must be expected to engage with the rehabilitation process where their drug use is a barrier to their finding work. After careful thought, we have also amended the drug testing provisions to make the policy more effective.

Amendments 10 to 12 for jobseeker's allowance and Amendments 19 to 21 for ESA divide the substance-related assessment into two stages: an initial assessment and a follow-up interview a few days later to discuss matters arising at the initial assessment. Where problem drug users are not already in treatment and are neither prepared nor ready to engage with treatment services, they will be required to attend a series of assessments with the aim of encouraging them into treatment. If they fail to attend these assessments without good cause, they will be subject to a benefit sanction. Amendment 13 inserts a provision into the drug testing provisions that enables us to offer an individual who refuses to attend an assessment because they are adamant that they are not a drug user a drug test in order to demonstrate this. If they refuse the test, they can be sanctioned and re-referred for the assessment.

As indicated in the debate at the Report stage, we have looked at further limiting the circumstances in which mandatory drug tests would apply. To this end, individuals will be directed to undertake a mandatory drug test only where they have not self-identified their drug misuse, are not already in treatment, have not been referred to a substance-related assessment on the strength of information obtained from the criminal justice system, and have been subject to sanctions for

[LORD MCKENZIE OF LUTON]

not attending the substance-related assessment on two consecutive occasions. The Bill provides that permissible samples for testing are urine and other samples as described, so long as it is not an intimate sample as listed in some detail at paragraph 3(8) of the new schedule. Our current intentions are that the test will be based on samples of saliva.

Amendment 15 introduces powers to mandate problem drug users who refuse or are not ready to enter into treatment to agree a rehabilitation plan, which will require in particular that they attend a six-week education and motivational programme. The programme will encourage problem drug users to engage with treatment services. If the individual refuses to attend or does not complete the programme, a sanction will be applied. If the individual attends the educational and motivational sessions and decides that treatment is not for them at the present time, no sanction will be imposed. If, however, after a period of time signs of drug use being a barrier to work are displayed, they will be referred back to the assessment process. This ensures continuity of contact with treatment providers until such time as a person feels ready to receive treatment.

It is important that those identified as problem drug users take the first steps on the journey to overcome their addiction. Where claimants take up treatment voluntarily, they will be offered a treatment allowance and a place on a new drug and employment support programme that will provide integrated and personalised support for problem drug users on JSA or ESA. This allowance will be paid to the claimant as long as they agree via a voluntary rehabilitation plan to maintain their treatment and take advantage of the additional support available. It will remove some of the normal conditions of entitlement for benefit in order to allow drug users the time and space to focus on their recovery. For example, this will mean that those on JSA will not be required to sign on or show that they are actively seeking work.

Concerns have been expressed as to the extent that being labelled as being in receipt of a treatment allowance could expose the recipient to stigma and discrimination if they were to apply for housing benefit or concessionary rates of paying for goods and services. I therefore take this opportunity to provide reassurance that on any supporting documentation, and therefore from the perspective of the outside world, the individual will be recorded as being either on ESA or JSA and that there will be no mention of either a treatment allowance or relaxed conditionality.

If an individual drops out of the programme because they are not adhering to their voluntary rehabilitation plan, they will be returned to mainstream benefit with no sanctions. If, after a period of time, signs of drug use being a barrier to work are displayed, they will be referred back to the assessment process. Amendment 24 makes the same changes to the provision for ESA customers.

Finally, consequential Amendments 18 and 28 insert the new rehabilitation plan provisions into the evaluation report for JSA and ESA respectively, while Amendment 2 inserts the voluntary rehabilitation plan's functions into the contracting-out clause for JSA. Amendment 26 carries out the same function for ESA.

I hope that noble Lords will agree that this represents a balanced package of measures to encourage problem drug users to engage with treatment services and with the additional help and support on offer through the benefits system. I urge noble Lords to support the amendments. I beg to move.

Lord Freud: My Lords, the scale of the drug problem in this country is clearly most disturbing, with 400,000 problem drug users, the bulk of whom—some 350,000, according to the Government—are on benefit. Against this challenge, the Government's response looks late, timid, underresourced and, regrettably, underresearched. As was made clear in Committee, under the plans in the Bill there will be a two-year pilot, which will then be assessed. It will be surprising to many that the Government have not already worked out what solutions may be more or less effective in this area. It is, after all, a problem that has been growing for decades now.

The pilots will involve 10,000 problem drug users. This is a bare 2.5 per cent of the total number, so we are hardly going to see a major revolution in provision. I hope that the approach is less one-dimensional than it appears in the Bill. Many, if not most, drug users have a number of problems, particularly psychological ones. The treatment here seems focused on drug rehabilitation and yet, if the psychological problems are not addressed at the same time, relapse rates will inevitably be high. We have still precious few centres that provide holistic support for this group of people. My concern is that the pilots will be completed and, in three years' time, we will find that we are, sadly, not much further along.

Lord Kirkwood of Kirkhope: My Lords, I take a different view from that of the noble Lord, Lord Freud, but I understand the point that he makes. I am still taken aback by the inclusion of drugs in the social security welfare-to-work field, which fell out of the sky in the summer of 2008 with the White Paper—or was it the Green Paper? I cannot remember. I have been watching this subject develop in parliamentary terms since 1983 and drugs have never been a part of welfare reform. As far as I am concerned—and my experience in drugs is much more limited than that of my other colleagues—drugs should be a health problem, not a social security problem. It is almost as inappropriate as Section 8 and the abolition of income support. I was determined to get that in somehow before Third Reading was over and I have now got it safely off my chest. The inclusion of drugs is a mistake.

Having said that, I think that these amendments substantially improve the Bill. I again pay tribute to the noble Baroness, Lady Meacher, who is unfortunately unable to be in her place today, and to the work that she did in driving opposition to the Government's original position. Where we are now is at least defensible: we are not tying people to the floor and inflicting treatment on them that they do not want, which is progress. But the Government will have to watch this very carefully and I, for one, would have been happier if these provisions had not been anywhere near a social security Bill of this significance. I do not think it appropriate that they should be there but, if they are to be in the Bill, it is much better in this format than in the earlier format.

Baroness Uddin: My Lords, I declare an interest: I work for a national drug agency. I am hesitant to make any comment because it is purely coincidental that I am in the Chamber at this point.

I agree with the noble Lord, Lord Kirkwood, that it is surprising to see this issue in this context. I have some little knowledge about the sufferings of men and women under these conditions. There is not enough co-ordination of services, and there are not enough centres of excellence, to address some of the problems that many of these sufferers already face, one of the main ones being stigma. Services are not co-operative because in many circumstances this is regarded as a self-inflicted wound, so the services that sufferers receive are already inadequate in many senses.

I welcome this discussion. Drugs and drug rehabilitation have been far from the mainstream agenda for a long time, but they affect the most vulnerable people in our communities—not only the individuals who are suffering but their families. There is some good work in progress up and down the country, run by various national organisations, looking at the drastic impact of this on families, but that has not yet been taken on board. I hear all the arguments about why there should be some punitive measures but I am concerned about the idea. I hope that my noble friend will take that on board and urge officials and staff in the services to be cautious; there is still not enough information and training within the workforce about supporting substance misusers.

Lord McKenzie of Luton: My Lords, I thank noble Lords who have spoken in response to the amendments. I am not sure, from the contribution of the noble Lord, Lord Freud, whether he supports or opposes them. I agree with him that drug users often have multiple issues that they have to face, such as psychological issues and mental health problems, which is why the approach that is reflected in these amendments is so important.

That leads me on to the point made by the noble Lord, Lord Kirkwood, about why these provisions are anywhere near a welfare reform Bill. The reality is that many of these individuals lead chaotic lives at the moment, and in the benefits system they end up being sanctioned without the sort of support that should be available to them.

I pay tribute to the noble Baroness, Lady Meacher, who I now see in her place. She pressed the Government from the Cross Benches and helped us to focus on the fact that the key thing is to encourage people to be assessed and treated but to do so on a voluntary basis. Mandating people to treatment will not unlock the problem; individuals themselves have to reach the conclusion that they need to be supported.

I make the same point to my noble friend Lady Uddin. Of course there will never be enough resources to do everything that we want but this is an important step. This is not about punishing people; it is about enabling them to move towards the labour market, get into work and overcome the challenges that their drug misuse faces them with.

Amendment 2 agreed.

Clause 35 : Power to rename council tax benefit

Amendment 3

Moved by Baroness Turner of Camden

3: Clause 35, page 41, line 11, leave out “may” and insert “shall”

Baroness Turner of Camden: I shall speak also to my Amendment 7, which is grouped with this one, as it is on a similar topic. Noble Lords will know that I have endeavoured, throughout the discussion on the Bill, to secure a change in the title of council tax benefit. The reason for that was a suggestion made to me by the British Legion, which has undertaken much research among veterans, many of whom are entitled to council tax benefit but do not claim it. The research indicated that more would claim it if it were renamed “council tax rebate”. It is a matter of dignity, the British Legion believes; many are too proud to claim a benefit even though they may need it.

On Report, a government amendment set out arrangements for the renaming of the benefit. This was accepted by the House at the time, but the provision said that the Secretary of State,

“may by order provide for the benefit”,

to be renamed, and so on. It seemed to me that “may” was rather indefinite. In my amendment, I suggest that it should be changed to “shall”. I hope that my noble friend will feel that it is a positive amendment that would be acceptable to him.

5.30 pm

As for the rest of the situation, and my Amendment 7, one problem with what the Government proposed was that there was no timeframe and no indication of how long it would take before the renaming. That was a matter of some concern to the RBL, which has been briefing me over this period. I have set out an alternative suggestion in Amendment 7, in which the Houses of Parliament should discuss and come to a decision within three months of this Act coming into force. In other words, there would be a renaming, but we would not have to wait forever for it, since it would happen within three months of the passage of the Act. That is important from the standpoint of those interested in this amendment, because we are talking about people who are not very young. Many of them have been around for a very long time and are getting older all the time—and old people do not have long to wait. Therefore, it seems reasonable to set a timeframe for renaming this benefit.

When we discussed this matter at Report, the Minister was kind enough to say that he would bring back further amendments on this issue, although not on the timing. He has done so in Amendments 4, 5 and 6, which we shall shortly have the opportunity to discuss. I am very much in favour of those amendments and, when we come to discuss them, I can say that again. However, I think that the timeframe is important, and I should like some indication from the Minister whether, if the three months that I propose is not acceptable, some kind of timeframe can be indicated as to when

[BARONESS TURNER OF CAMDEN]

and how long people will have to wait before the reform that they seek becomes available to them. I beg to move.

Baroness Hollis of Heigham: My Lords, I am sorry in a way that this amendment has not been grouped with the subsequent group of amendments, because it could be a little difficult repeating our arguments. I have no particularly strong views on whether we should re-label council tax benefit as council tax rebate. On the one hand, that would detach it from the benefit system, which for some people would be desirable. However, on the other hand, others are passported on to it by virtue of housing benefit, and you may lose the connection with passporting by renaming the benefit a rebate. On one hand, there are gainers while, on the other, there may be losers.

Will my noble friend the Minister, in reply to my noble friend Lady Turner, or in his own speech later on, remind the House whether former servicemen, particularly those with war pensions—the constituency for which the RBL, rightly, campaigns—are entitled to 50 per cent reduction as of right of their council tax? If so, that may to some degree account for the relatively smaller take-up. It may be a dignity issue, but the sums involved may become that much lower by virtue of the reduction in the council tax bill for those people. As we all know, in looking at claims to benefits, although substantial sums are unclaimed, very often, as with pension credits, people at the very edges may have only £2, £3, £5 or £10 to claim and may think that it is not worth the hassle, because they judge the sums as relatively modest. Could my noble friend help me on that point?

Lord Kirkwood of Kirkhope: My Lords, I support the thrust of the amendment, simply on the basis that Governments leave the statute book littered with provisions that are never enacted. You do not need to be a political scientist to work out that there could be a change in government in the next few months. The House at Report is entitled to get a reasonable timeframe. I think that three months is very tight; I would not like to undertake that responsibility myself. However, the case is a powerful one, and I think that—speaking for myself—the House would settle for some assurance that this will not be just another bit of legislation that gathers dust on the shelf.

Lord Freud: The noble Baroness, Lady Turner, is to be congratulated on her determination to pursue the issue of renaming the council tax benefit. It is clearly a matter close to her heart, and it is clear from our debates in Committee and on Report that the measures she is seeking are acceptable to all parties, and particularly welcomed by us. The power to make all the changes are in the Bill, and all that is required now is for the Government to make it clear that they are going to use that power.

The noble Baroness is right to press the Minister on implementation. We do not wish to see the power to change “benefit” to “rebate” languishing on the statute book but never used, which, as the noble Lord said, has happened in so many other instances. We accept that there are more preparations to be made than

might at first meet the eye before the change can successfully be enacted, but that must not be allowed to become an excuse for inaction.

Noble Lords will remember from Committee that the leader of the Conservative Party, my right honourable friend David Cameron, made it clear in his response to the Royal British Legion that, should this Government fail to act, a Conservative Government led by him would do so instead. Putting that to one side, we are quite sure that the noble Lord the Minister will be able to put to rest any lingering concerns held by noble Lords, and indeed those outside this House, that the Government would prefer this issue to go quietly into the long grass. He could do much in his response to set out what steps the Government are currently taking to prepare for the implementation of this measure, and by what stage he expects it to be complete. I know that he was reluctant to be that explicit at Report.

I accept that this may call for a certain amount of flexibility in timing, which is why I am hesitant to support the three-month time limit in the noble Baroness's Amendment 7. However, if we have an understanding of the work the Government are undertaking, it would help Parliament to keep an eye on the progress being made. We would prefer to hear a robust statement of assurance from the Minister than any more formal process.

Lord McKenzie of Luton: My Lords, I thank my noble friend for tabling these amendments, which clearly demonstrate her commitment to reducing pensioner poverty by addressing the poor take-up of council tax benefit among pensioners. We have already done much to tackle pensioner poverty. I have referred to the 900,000 pensioners whom we have helped out of poverty since 1998. We are committed to ensuring that pensioners receive the support to which they are entitled, which is why we have already simplified the claims process. Since November 2008, pensioners can claim housing benefit and council tax benefit with pension credit entirely over the phone. The claim is forwarded to the local authority without the need for a signed claim form. I should say to my noble friend Lady Hollis that the change of name should not impact on the passporting of benefits. It is too soon for some of the recent measures we have taken to have fed through into the latest take-up figures. Nevertheless we accept that there is scope to do more.

We have engaged now in several debates on this matter. I set out the Government's position at Report, last Tuesday. This is a change which we wholeheartedly support and a power that we intend to use. We have been convinced by the arguments so eloquently presented by the Royal British Legion and my noble friend in recent months and have demonstrated that we intend to make this small but significant change to help to remove a barrier so that pensioners take up the help they so richly deserve.

The Government have already said that we intend to make this change. The amendment moved in this House last week, now Clause 35 of this Bill, provides an order-making power which will allow the name change from benefit to rebate to be made quickly when we have completed the essential work needed to successfully implement the change. We have listened to

the debate and understand the strength of feeling so clearly expressed by noble Lords again today and by the Royal British Legion on this matter. Because of this, we want to go further.

The amendment that I will move shortly will confirm that the order-making power can be used only to change the name of the entitlement to council tax rebate—a very clear commitment, I believe. In her amendments today, however, my noble friend has pushed us further, by seeking in Amendment 3 to substitute the word “may” with “shall”. I appreciate that the use of one word over another can make a big difference, and could help to provide the further assurance that noble Lords are looking for on this matter. I am therefore happy to accept this amendment and state unequivocally in the Bill that the Government intend to make this change. I hope that this reassures my noble friend, and I am indebted to her for giving the Government the opportunity to make it crystal clear.

I know that concerns remain over the timing of the change; we have heard those again this afternoon. My noble friend has proposed a further amendment to gain some more certainty of the date for implementation. I will, however, have to ask her to withdraw that amendment, as we just cannot commit to a timetable at this point. Amendment 7, tabled by my noble friend, aims to firm up the timing of the change. It seeks to commit the Government to the laying of the first order before Parliament within three months of the coming into force of this Bill. It goes further in requiring approval by resolution of each House of Parliament for all orders made under the power—not just the first. I shall deal with that aspect later.

Clause 59 provides for the commencement of the provisions of the Bill, and under it those provisions will therefore come into force on the day appointed by order made by the Secretary of State. As I have already made clear, the Government are committed to making the change as soon as is reasonably possible, but it is not possible to make any commitment to a timeframe at this stage without first completing the detailed work needed to assess the practicalities for local authorities and the precise costs involved. That will require reasonable time in which to properly consult them about the impact on their operational delivery of council tax and benefits, and on the best way to help customers take up the entitlement.

It is of overwhelming importance to ensure that when we implement the change it is done properly and effectively, so that it can make the difference we all desire—to help customers understand what help they are entitled to, and not to be put off from applying for it. It will take time to get that right, and with the best will in the world, changes—even one that looks as straightforward as this—cannot happen in a short space of time. One element of it is taking the time and care to deliver subordinate legislation that is accurate and provides all the necessary safeguards for claimants. That will have to be informed by discussion with local authorities and other stakeholders to ensure that whatever is done, and whenever, is effective and workable.

Three months is not a great amount of time to properly consult local authorities and to prepare regulations, but more important than the drafting

process are the practical issues. I have already spoken about the extensive changes needed to computer systems. There are some 380 local authorities using several different systems. References to the benefit are embedded in IT systems used by each and every local authority, and in various parts of central government that link to those systems to facilitate easier claiming. All of those references will need to be changed. Local authorities must have at least six months lead-time for making changes involving IT, and some changes—even those that appear straightforward—take a lot longer, particularly when the effect is far-reaching.

Changes will also be needed to DWP computer systems, including those that provide the essential link with pensioner customers at the point of claim. Programmes for changing IT in DWP are always heavily subscribed, and it is essential to allow adequate time so that a previously unplanned change of this scale can be accommodated without risking other scheduled changes. It is not only IT systems that are affected. References to council tax benefit are made in a wide range of forms and leaflets, not only those relating to claims to the benefit, but in other information issued. In response to our soundings, one local authority has submitted a list of 115 letters that would need to be changed.

Moreover, local authorities and advisers must be in a position to effectively convey what this change means in order for it to have the impact that we all want. If we are to avoid confusing existing and potential customers, all of these references—in forms, leaflets and letters—will need to be changed. Simply telling people that we have changed the name while continuing to talk about council tax benefit in leaflets, forms and computer-generated letters would, I suggest, be a recipe for chaos. There is a danger that that confusion could actually reduce take-up.

5.45 pm

It is also likely to be critical that we should time the introduction of a new name with the start of the new financial year, so that arrangements can be made to send information of the change with new bills. That is the only sensible time to implement the change of name, and will be much more cost-effective than making a mid-year change. I want to assure noble Lords again that we will work closely with local authorities and key partners to carry out this work as quickly as possible. We have already begun that process, but I hope that noble Lords will understand and accept that it is simply not possible to set out a timetable at this stage.

The second amendment tabled by the noble Baroness also provides that it should be not just the first use, but any subsequent change in use of the order-making power, which would require the approval of Parliament through the affirmative procedure. At Report, I drew the attention of the House to the Delegated Powers Committee recommendation on this matter, and I explained that we would return at Third Reading to amend the Bill accordingly. In fact, the government amendment that we have laid goes further, by amending the name to council tax rebate. This means that we no longer need to set out the circumstances under which any further change to the name would require the

[LORD MCKENZIE OF LUTON]
approval of Parliament by affirmative resolution. It will simply not be possible for there to be a subsequent change of name, and the circumstances covered by the recommendation of the Delegated Powers Committee will therefore never arise.

Furthermore, I suggest to the House that Amendment 7, in the name of my noble friend, would, if moved, constrain disproportionately the Government and the House itself. We would want to introduce changes as soon as possible; to enable that to happen, one possibility might be to bring in an element of phasing to local authorities that were ready, or phasing by category of customer. If that were to be the case, we would not want to take up unnecessary parliamentary time by requiring Parliament to debate subsequent orders that did nothing more than rolling out the change to the remaining local authorities and customers.

Noble Lords raised several additional points in their presentations. The noble Baroness, Lady Thomas, and the noble Lord, Lord Kirkwood, pressed me on the timeframe. I think that I have explained why we simply cannot give one, much as we would like to. In response to the noble Lord, Lord Freud, we do intend to use this power. This is not about kicking matters into the long grass. Forgive me if I do not take the opportunity to comment on the prospects for a change in Government, or for David Cameron. I am sure that we shall have another opportunity to do that. My noble friend Lady Hollis asked about discounts on council tax for ex-service personnel. Discounts for particular categories of people are down to individual local authorities; that is the policy of Communities and Local Government, but I am happy to write further on that.

As I explained, I am happy to accept the first amendment tabled by my noble friend, but I urge her not to proceed with the second as we simply cannot commit to a timeframe, and certainly not to a timetable of “within three months”. That is simply not deliverable, and it would be quite wrong for me to stand here and suggest otherwise to noble Lords.

Baroness Turner of Camden: My Lords, I thank my noble friend the Minister for that extensive explanation, and for his acceptance of my Amendment 3. He is quite right that the fact that the Government accept the amendment gives people who are interested in it—and in the change in name—the assurance they seek; that the Government are serious about it. I am very grateful for his acknowledgement that it is necessary and that he is prepared to accept Amendment 3.

On the timeframe, I thank noble Lords who have spoken in support of that question. It is a problem, but I accept that there are complications because of the involvement of local authorities. I am grateful for the assurances we have had that the Government desire to have the measure operative as soon as possible and that this is not what you might call a “long-grass” type of legislation where everybody votes for it and then nothing happens. That is not the Government’s intention, as I understand it. I am very grateful for the extensive explanation, which will appear on the record, illustrating the difficulties involved with such a detailed measure involving local authorities. I thank the Minister

for accepting Amendment 3. In view of the explanation that he has given, I shall not move Amendment 7 when we reach it.

Amendment 3 agreed.

Amendment 4

Moved by Lord McKenzie of Luton

4: Clause 35, page 41, leave out lines 13 to 15 and insert “(council tax benefit) to be known instead, either generally or in cases prescribed by the order, as council tax rebate.”

Lord McKenzie of Luton: My Lords, I beg to move Amendment 4 and speak to the other amendments with which it is grouped. We have just debated setting a clear timeframe for introducing a change in the name of the benefit. As I explained, I am unable to commit to a clear timetable for implementing the name change until the further work needed has been completed, but the Government have listened to the debate and the strength of feeling behind the issue. As I have already said, a key point that noble Lords made on Report was on the central importance of the name. The Royal British Legion focused particularly on the impact that a simple name change, from council tax benefit to council tax rebate, could have on take-up of the entitlement.

During our debates there has been considerable support, from all sides of the House, for the name change to “rebate” proposed by my noble friend. There are other possibilities, but we agree that a name change from council tax benefit to council tax rebate accurately describes the true nature of the benefit. It is hard to imagine that another title would improve on this. I am therefore very pleased to come back to noble Lords with further amendments which reflect the consensus that the new name for council tax benefit should be council tax rebate, and that this should be clearly stated in the Bill. This means we can get on with the important work of preparing local authorities for the change of council tax benefit to council tax rebate.

Baroness Turner of Camden: My Lords, all I can say in response to that is thank you very much.

Lord Freud: We thoroughly approve of the noble Lord’s amendments.

Amendment 4 agreed.

Amendments 5 and 6

Moved by Lord McKenzie of Luton

5: Clause 35, page 41, line 17, leave out “the relevant” and insert “council tax”

6: Clause 35, page 41, line 19, leave out “the relevant” and insert “council tax”

Amendments 5 and 6 agreed.

Amendment 7 not moved.

Clause 47 : Power to repeal exclusion of community care services

Amendment 8

Moved by **Lord McKenzie of Luton**

8: Clause 47, page 49, line 33, at end insert—

“(7) The power to make an order under subsection (1) or (5) is exercisable by statutory instrument.”

Amendment 8 agreed.

Amendment 9

Moved by **Lord McKenzie of Luton**

9: After Clause 51, insert the following new Clause—

“Report on operation of travel authorisation amendments

(1) The Secretary of State must prepare a report on the operation during the review period of the amendments of the 1991 Act made by section 50 and Schedule 5 so far as those amendments relate to the disqualification of any person for holding or obtaining a travel authorisation.

(2) “The review period” is the period of 24 months beginning with the day on which section 50 and Schedule 5 come into force in relation to the disqualification of any person for holding or obtaining a travel authorisation.

(3) The Secretary of State must—

- (a) prepare the report, and
 - (b) lay it before Parliament,
- within 6 months from the end of the review period.

(4) The continued effect of the travel authorisation amendments depends on whether the Secretary of State makes an order under this subsection within the relevant period providing for those amendments to continue to have effect.

(5) “The relevant period” means the period of 30 days beginning with the day on which the report is laid before Parliament; and, in reckoning this period, no account is to be taken of any time during which Parliament—

- (a) is dissolved or prorogued, or
- (b) is adjourned for more than 4 days.

(6) If no order is made as mentioned in subsection (4), the Secretary of State must instead make an order under this subsection containing such amendments of the 1991 Act as the Secretary of State considers necessary to secure that the effect of the travel authorisation amendments is reversed.

(7) The effect of the travel authorisation amendments is to be regarded as reversed if the 1991 Act is amended so that it has the same effect in relation to the disqualification of any person for holding or obtaining a travel authorisation as it would have had if this Act had not been passed.

(8) An order under subsection (6) may contain consequential provision and transitional provision or savings.

(9) The consequential provision that may be made by an order under subsection (6) includes, in particular, provision amending, repealing or revoking—

- (a) any provision of any Act passed before the making of the order, or
- (b) any provision of any instrument made under any Act before the making of the order.

(10) Any power to make an order under this section is exercisable by statutory instrument.

(11) An order under subsection (4) may not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.

(12) A statutory instrument containing an order under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.

(13) In this section—

“the 1991 Act” means the Child Support Act 1991 (c. 48);

“travel authorisation” has the same meaning as in section 39B of the 1991 Act;

“the travel authorisation amendments” means the amendments of the 1991 Act made by section 50 and Schedule 5 so far as relating to the disqualification of any person for holding or obtaining a travel authorisation.”

Lord McKenzie of Luton: My Lords, Amendment 9 fulfils the commitment made on Report, and follows a similar amendment put forward by the noble Lords, Lord Freud and Lord Taylor, on Report. It will help to ensure that Parliament can properly review the effectiveness of the power to disqualify a recalcitrant, non-resident parent from holding travel authorisation. It will do this in the same way as already provided for in relation to the driving licence provisions by Clause 51, prior to the legislation coming into permanent effect.

This amendment will ensure that a report on the operation of the driving licence and travel authorisation powers must be put before Parliament within six months from the end of a two-year review period. Based on the success of these measures, the Secretary of State will have the option of making the administrative system permanent or reverting to the existing court-based powers for either or both. Any decision to maintain an administrative system must be made by an order subject to the affirmative procedure and noble Lords will thereby have an opportunity to debate the success of each of these measures prior to a permanent administrative system being introduced.

As I said on Report, I appreciate the movement that the Opposition have made on this issue since it was first raised in 2007. I believe this amendment represents a significant workable compromise. I beg to move.

Lord Kirkwood of Kirkhope: My Lords, I feel a bit short-changed in regard to this matter. I thought that we were talking about sunset clauses, but actually this is a pilot scheme. A pilot scheme is not a sunset clause. I do not want to labour that because we are where we are, but I would be much happier with a straightforward measure. The very powerful arguments made by the noble Lord, Lord Goodlad, during the passage of last year’s child support legislation were much more in that vein than the amendment we are discussing, which stands in the Minister’s name. I wish to register that objection but, more importantly, what will the report contain that will make it a useful tool for the House to consider in two years’ time to enable it to decide whether it is sensible to continue with these powers? The House will have nothing to compare the report with. It would be much more sensible to, say, run one system in Callendar Park and another in Plymouth and compare and contrast them after two years. You would then be able to see what the counterfactual was.

CMEC and the Child Support Agency will change their behaviour as soon as this amendment is passed and motor as hard as they can for the next two years to ensure that the measure looks as good as possible

[LORD KIRKWOOD OF KIRKHOPE]
and then present the House with no alternatives. What are we expected to say? What will the report contain that will enable us to weigh in the balance whether the current system, which contains the protection offered by the court, is better than or different from the new system? All we will get is a report on whether the new system has worked. The Government will pile resources into this to ensure that it works, count up the extra child maintenance that is paid—I am in favour of that—and then say that there is no alternative. I do not know how the proposed report will enable the House to make a sensible judgment at a future date on whether to keep the new powers or to revert to the status quo. Until I receive reassurance on that, I am not sure that I support the amendment.

Lord Freud: My Lords, I come at this with somewhat less passion than the noble Lord, Lord Kirkwood. I thank the Minister for the amendment, which I believe achieves the ends that I sought on Report. It was extremely peculiar to have two different approaches to assessing the impact of removing driving licences and passports respectively from non-resident and recalcitrant—as the noble Lord described it—parents. The amendment brings the measures into line. I welcome that attack of common sense.

On that point of agreement, of which we have had many, and as we draw to the end of Third Reading, I thank the Minister and the Bill team for shepherding us through the Bill, which we are extremely pleased to support.

Lord Skelmersdale: My Lords, I have been pursuing this matter for almost two years. However, since just before the Summer Recess, I have been extremely careful not to interfere publicly in the deliberations of my noble friend Lord Freud. The Minister has my personal thanks for coming up with a sensible answer at a sensible time. I say more power to his elbow.

Lord McKenzie of Luton: My Lords, I thank all noble Lords who have spoken on this issue. I thank the noble Lords, Lord Freud and Lord Skelmersdale, for their support and kind words, and for their kind words about the Bill as a whole and the work of the Bill team. This is not the time to reopen and go over the debates about the difference between driving licences and travel documents, as we have debated that previously.

I should to say to the noble Lord, Lord Kirkwood, that the provisions have the same effect as a sunset clause. A power cannot be used for more than two years without another process kicking in. He asked, “What on earth good will these reports be at the end of that period?”. I have not sat down to work out in detail what they might cover, but I presume that such reports would cover the number of occasions that the provisions have been used, what might happen under the appeals process, and how that has progressed. They might touch on the amount of money that has been collected for children by using these processes. One could envisage a range of useful things coming out of a report that would enable a judgment to be made about whether or not they continue. However, that is a debate to have when we see the reports in due course.

I thank the noble Lords, Lord Freud and Lord Skelmersdale, for their support. I am not sure where the noble Lord, Lord Kirkwood, stands on this, but I hope that he will not seek to divide the House.

Amendment 9 agreed.

6 pm

Schedule 3 : Claimants dependent on drugs etc.

Amendments 10 to 13

Moved by Lord McKenzie of Luton

10: Schedule 3, page 78, line 7, at end insert “and a subsequent interview (a “drugs interview”) with an approved person to discuss any matters arising out of that assessment”

11: Schedule 3, page 78, line 32, at end insert “or a drugs interview”

12: Schedule 3, page 78, line 34, after “assessment” insert “or drugs interview”

13: Schedule 3, page 78, line 35, at end insert—

“(4A) Regulations under this paragraph may, in particular, make provision for a requirement imposed on a person (“P”) under this paragraph to cease to have effect if—

- (a) P agrees to provide a sample, in accordance with instructions given by an approved person, for the purpose of ascertaining whether there is or has been any drug in P’s body, and
- (b) the sample provided indicates that no drug is or has been in P’s body.”

Amendments 10 to 13 agreed.

Amendment 14

Moved by Lord McKenzie of Luton

14: Schedule 3, page 80, leave out lines 12 to 37

Lord McKenzie of Luton: My Lords, I shall speak also to the other amendments in this group. I bring them forward to place in the Bill the reassurances that I gave in response to concerns expressed in Committee on medical details and the passing on of information that the department receives.

These amendments tighten up the data-sharing powers considerably, in particular by preventing Jobcentre Plus from obtaining information about a person’s medical and social work history. The amendments also provide that the information provided by the police and probation service can be used only by those involved in administering the new programme.

The revised data-sharing provisions are intended to help Jobcentre Plus identify problem drug users so that they can be provided with the support that they need to prepare for and find work. We are aware that some problem drug users will not disclose that they have a drug problem due to stigma or embarrassment, or for other reasons. I also take this opportunity to remind noble Lords that in criminal proceedings the prosecution may adduce no evidence relating to any answer given by a person to the department about his or her drug use.

Information will be provided about persons who have tested positive for drug use when arrested or charged for an offence by the police, but who fail to attend either an initial or a follow-up assessment of their drug use. Information will also be provided by the probation service to Jobcentre Plus on individuals subject to drug rehabilitation requirements issued by the court as part of a community sentence. Such people should already be in treatment, but provision of their details will enable them to be included in the programme. Existing powers will allow information about people who have recently left prison to be provided by the Prison Service. However, all these information flows will be one-way. Jobcentre Plus will not provide data to the criminal justice system. The information will be passed on only to Jobcentre Plus service providers or the drugs workers responsible for carrying out the substance-related assessments.

The information will be disclosed elsewhere only if Jobcentre Plus, or the person holding the information, is ordered by a court to do so, or where they are required to disclose in order to comply with a statutory duty. As a further safeguard, the affirmative parliamentary procedure will apply to all the regulations made under Schedule 3. Before they can come into force, they will have to be approved in draft by both Houses. The regulations will also be drafted to ensure that the requirements that they impose on benefit claimants are compatible with the European Convention on Human Rights.

With these restrictions now in place and the reassurances I have given, I hope that noble Lords will accept these amendments. I beg to move.

Baroness Meacher: My Lords, I apologise to the House and particularly the Minister that I was unable to be in the Chamber when he moved the raft of government amendments relating to Clause 9 and Schedule 3, which offer a real opportunity to draw in claimants who are dependent on drugs to a process which might induce them over time to accept treatment, and thus offer them a real opportunity—probably not immediately—to find a way back to a normal life and health, and to work. I am most grateful to the Minister, other Ministers and the Bill team for their work on those amendments.

This group of amendments in relation to information supports the general thrust of the earlier amendments and, therefore, is critical in enabling the DWP to play its part in the real rehabilitation of this most excluded group of claimants. If these claimants are criminalised under our Home Office provisions, they will run a mile if they feel that information that they give to the DWP is passed to others who could cause them severe damage. That would prevent the other important amendments having the effect that I believe they will have.

I pay tribute to the Minister and the Bill team for this series of amendments that dovetails with the others. We now have a coherent and constructive Clause 9 and Schedule 3, and this has transformed my feeling about the potential of the Bill for public good.

Lord McKenzie of Luton: I thank the noble Baroness, Lady Meacher, for her comments in support of these provisions and the earlier amendments. Particularly, I

pay tribute to the fact that it was her due diligence in Committee which caused us to focus on and, in a sense, recast the thrust of these provisions. If we have ended up in a good place, much of the credit is due to the noble Baroness.

Amendment 14 agreed.

Amendments 15 to 28

Moved by Lord McKenzie of Luton

15: Schedule 3, page 80, line 38, leave out from beginning to end of line 17 on page 82 and insert—

“Voluntary and mandatory rehabilitation plans

5A (1) Regulations may make provision for or in connection with—

- (a) securing that a person (“P”) who at any time complies with a voluntary rehabilitation plan is not required to meet the jobseeking conditions at that time; and
- (b) suspending any jobseeker’s agreement to which P is a party for any period during which P complies with a voluntary rehabilitation plan.

(2) Regulations under this paragraph may include provision for the consequences set out in sub-paragraph (1)(a) and (b) to follow only if the Secretary of State is satisfied that—

- (a) P is dependent on, or has a propensity to misuse, any drug, and
- (b) P’s dependency or propensity is a factor affecting P’s prospects of obtaining or remaining in work.

(3) For the purposes of this paragraph a “voluntary rehabilitation plan” is an agreement entered into by the Secretary of State and P under which P agrees to take one or more of the following steps.

(4) The steps are—

- (a) submitting to treatment by or under the direction of a person having the necessary qualifications or experience,
 - (b) taking part in specified interviews, and specified assessments, at specified places and times, and
 - (c) taking such other steps (if any) as may be specified,
- with a view to the reduction or elimination of P’s dependency on, or propensity to misuse, the drug in question.

(5) The treatment may be—

- (a) treatment as a resident in a specified institution or place, or
- (b) treatment as a non-resident at a specified institution or place, and at specified intervals.

(6) Regulations under this paragraph may, in particular, make provision—

- (a) as to the maximum period for which a person may benefit from the provision made by the regulations;
- (b) about the form of voluntary rehabilitation plans (including provision as to their signing);
- (c) about the review, variation and revocation of voluntary rehabilitation plans;
- (d) for securing that a person who agrees to comply with a voluntary rehabilitation plan provides information, and such evidence as may be prescribed, as to compliance with the plan.

(7) A jobseeker’s allowance may also be known as a “treatment allowance” at any time when—

- (a) it is payable in respect of a person to whom this paragraph applies, or
- (b) it is payable in respect of a joint-claim couple both members of which are persons to whom this paragraph applies.

(8) In this paragraph “specified”, in relation to a voluntary rehabilitation plan, means specified in or determined in accordance with the plan.

6 (1) Regulations may make provision for or in connection with imposing on a person a requirement to comply with a mandatory rehabilitation plan.

(2) Regulations under this paragraph must include provision for securing that a person is subject to the requirement mentioned in sub-paragraph (1) at any time only if—

- (a) the person has not at that time agreed to comply with a voluntary rehabilitation plan under paragraph 5A, and
- (b) the Secretary of State is satisfied as mentioned in sub-paragraph (2) of that paragraph.

(3) For the purposes of this paragraph a “mandatory rehabilitation plan” is a document—

- (a) which is provided to the person by the Secretary of State, and
- (b) which contains one or more of the following requirements.

(4) The requirements are that the person—

- (a) must attend an educational programme at a specified place and at specified times,
- (b) must take part in specified interviews, and specified assessments, at specified places and times, and
- (c) must take such other steps (if any) as may be specified, with a view to the reduction or elimination of the person’s dependency on, or propensity to misuse, the drug in question.

(5) Nothing may be specified in a mandatory rehabilitation plan which requires a person to submit to medical or surgical treatment.

(6) Regulations under this paragraph may, in particular, make provision—

- (a) as to the involvement of a person in determining the particular requirements to be contained in a mandatory rehabilitation plan with which the person is to be required to comply;
- (b) about the form of mandatory rehabilitation plans (including provision as to their signing);
- (c) about the review, variation and revocation of mandatory rehabilitation plans;
- (d) for securing that a person who is required to comply with a mandatory rehabilitation plan provides information, and such evidence as may be prescribed, as to compliance with the plan.

(7) Regulations under this paragraph may not impose a requirement on a person at any time unless the person would (apart from the regulations) be required to meet the jobseeking conditions at that time.

(8) In this paragraph “specified”, in relation to a mandatory rehabilitation plan, means specified in or determined in accordance with the plan.”

16: Schedule 3, page 83, line 8, at end insert—

“Information

7A (1) Regulations may make provision for or in connection with authorising the supply of information, other than excluded information, held by—

- (a) a police force,
 - (b) the probation service, or
 - (c) such other person as may be prescribed,
- to a person within sub-paragraph (2) for use for the purposes of any provision of this Schedule.

(2) The persons within this sub-paragraph are—

- (a) the Secretary of State;
- (b) a person providing services to the Secretary of State;

(c) an approved person (within the meaning of paragraph 2).

(3) Information supplied under the regulations may not be supplied by the recipient to any other person unless—

- (a) it could be supplied to that person under the regulations;
- (b) it is supplied for the purposes of any civil or criminal proceedings; or
- (c) it is required to be supplied under any enactment.

(4) In sub-paragraph (1) “excluded information” means any information relating to or acquired as a result of—

- (a) the provision of medical or surgical treatment or care, or
 - (b) the provision of services by a social worker,
- other than information as to whether a person is having (or has had) treatment in respect of the person’s use of any drug.

(5) In sub-paragraph (1) “the probation service” means—

- (a) in England and Wales, a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 or a provider of probation services;
- (b) in Scotland, a local authority within the meaning of the Social Work (Scotland) Act 1968.”

17: Schedule 3, page 83, line 27, at end insert—

“(4) In paragraph 19 of Schedule 1 (treatment of information), as inserted by section 33(3) of this Act, after “this Act” insert “(other than paragraph 7A of Schedule A1)”.”

18: Schedule 3, page 83, line 33, after “3” insert “, 5A”

19: Schedule 3, page 85, line 39, after “assessment” insert “, and a subsequent interview (a “drugs interview”) with an approved person to discuss any matters arising out of that assessment,”

20: Schedule 3, page 86, line 21, after “assessment” insert “or a drugs interview”

21: Schedule 3, page 86, line 23, after “assessment” insert “or drugs interview”

22: Schedule 3, page 86, line 24, at end insert—

“(4A) Regulations under this paragraph may, in particular, make provision for a requirement imposed on a person (“P”) under this paragraph to cease to have effect if—

- (a) P agrees to provide a sample, in accordance with instructions given by an approved person, for the purpose of ascertaining whether there is or has been any drug in P’s body, and
- (b) the sample provided indicates that no drug is or has been in P’s body.”

23: Schedule 3, page 88, leave out lines 1 to 26

24: Schedule 3, page 88, line 27, leave out from beginning to end of line 43 on page 89 and insert—

“Voluntary and mandatory rehabilitation plans

5A (1) Regulations may make provision for or in connection with securing that a person (“P”) who at any time complies with a voluntary rehabilitation plan is not required at that time—

- (a) to take part in a work-focused interview under section 12(1), or
- (b) to undertake work-related activity under section 13(1).

(2) Regulations under this paragraph may include provision for P not to be required to do the things mentioned in sub-paragraph (1)(a) or (b) only if the Secretary of State is satisfied that—

- (a) P is dependent on, or has a propensity to misuse, any drug, and
- (b) P’s dependency or propensity is a factor affecting P’s prospects of obtaining or remaining in work.

(3) For the purposes of this paragraph a “voluntary rehabilitation plan” is an agreement entered into by the Secretary of State and P under which P agrees to take one or more of the following steps.

(4) The steps are—

- (a) submitting to treatment by or under the direction of a person having the necessary qualifications or experience,
- (b) taking part in specified interviews, and specified assessments, at specified places and times, and
- (c) taking such other steps (if any) as may be specified, with a view to the reduction or elimination of P's dependency on, or propensity to misuse, the drug in question.

(5) The treatment may be—

- (a) treatment as a resident in a specified institution or place, or
- (b) treatment as a non-resident at a specified institution or place, and at specified intervals.

(6) Regulations under this paragraph may, in particular, make provision—

- (a) as to the maximum period for which a person may benefit from the provision made by the regulations;
- (b) about the form of voluntary rehabilitation plans (including provision as to their signing);
- (c) about the review, variation and revocation of voluntary rehabilitation plans;
- (d) for securing that a person who agrees to comply with a voluntary rehabilitation plan provides information, and such evidence as may be prescribed, as to compliance with the plan.

(7) An employment and support allowance may also be known as a "treatment allowance" at any time when it is payable to a person to whom this paragraph applies.

(8) In this paragraph "specified", in relation to a voluntary rehabilitation plan, means specified in or determined in accordance with the plan.

6 (1) Regulations may make provision for or in connection with imposing on a person a requirement to comply with a mandatory rehabilitation plan as a condition of continuing to be entitled to the full amount payable to the person in respect of an employment and support allowance apart from the regulations.

(2) Regulations under this paragraph must include provision for securing that a person is subject to the requirement mentioned in sub-paragraph (1) at any time only if—

- (a) the person has not at that time agreed to comply with a voluntary rehabilitation plan under paragraph 5A, and
- (b) the Secretary of State is satisfied as mentioned in sub-paragraph (2) of that paragraph.

(3) For the purposes of this paragraph a "mandatory rehabilitation plan" is a document—

- (a) which is provided to the person by the Secretary of State, and
- (b) which contains one or more of the following requirements.

(4) The requirements are that the person—

- (a) must attend an educational programme at a specified place and at specified times,
- (b) must take part in specified interviews, and specified assessments, at specified places and times, and
- (c) must take such other steps (if any) as may be specified, with a view to the reduction or elimination of the person's dependency on, or propensity to misuse, the drug in question.

(5) Nothing may be specified in a mandatory rehabilitation plan which requires a person to submit to medical or surgical treatment.

(6) Regulations under this paragraph may, in particular, make provision—

- (a) as to the involvement of a person in determining the particular requirements to be contained in a mandatory rehabilitation plan with which the person is to be required to comply;

(b) about the form of mandatory rehabilitation plans (including provision as to their signing);

(c) about the review, variation and revocation of mandatory rehabilitation plans;

(d) for securing that a person who is required to comply with a mandatory rehabilitation plan provides information, and such evidence as may be prescribed, as to compliance with the plan.

(7) Regulations under this paragraph must include provision for a requirement imposed on a person under this paragraph to cease to have effect if the person becomes a member of the support group.

(8) In this paragraph "specified", in relation to a mandatory rehabilitation plan, means specified in or determined in accordance with the plan."

25: Schedule 3, page 90, line 22, at end insert—

"Information

7A (1) Regulations may make provision for or in connection with authorising the supply of information, other than excluded information, held by—

- (a) a police force,
 - (b) the probation service, or
 - (c) such other person as may be prescribed,
- to a person within sub-paragraph (2) for use for the purposes of any provision of this Schedule.

(2) The persons within this sub-paragraph are—

- (a) the Secretary of State;
- (b) a person providing services to the Secretary of State;
- (c) an approved person (within the meaning of paragraph 2).

(3) Information supplied under the regulations may not be supplied by the recipient to any other person unless—

- (a) it could be supplied to that person under the regulations;
- (b) it is supplied for the purposes of any civil or criminal proceedings; or
- (c) it is required to be supplied under any enactment.

(4) In sub-paragraph (1) "excluded information" means any information relating to or acquired as a result of—

- (a) the provision of medical or surgical treatment or care, or
- (b) the provision of services by a social worker,

other than information as to whether a person is having (or has had) treatment in respect of the person's use of any drug.

(5) In sub-paragraph (1) "the probation service" means—

- (a) in England and Wales, a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 or a provider of probation services;
- (b) in Scotland, a local authority within the meaning of the Social Work (Scotland) Act 1968."

26: Schedule 3, page 90, line 42, after "paragraph" insert "5A or"

27: Schedule 3, page 91, line 11, leave out ""or Schedule 1A"" and insert """, or under any paragraph of Schedule 1A other than paragraph 7A,""

28: Schedule 3, page 91, line 14, after "3" insert ", 5A"

Amendments 15 to 28 agreed.

Schedule 6 : Registration of births

Amendment 29

Moved by **Baroness Thomas of Winchester**

29: Schedule 6, page 102, line 35, at end insert—

“(5A) The Minister shall review this section within three years following commencement of this Act.

(5B) Such a review shall be presented to both Houses of Parliament.”

Baroness Thomas of Winchester: My Lords, I wish to make it clear from the outset that I do not intend to press the amendment. I move it only as a means of completing the discussions that we had last week. The House will remember that, following a lively debate, the Minister kindly offered a meeting to see whether a way forward could be found on the issue of joint birth registrations, and for that we were most grateful.

First, I reiterate our agreement with the Government that we want unmarried fathers to take as active a role as possible in bringing up their children, starting with having their name on the child’s birth certificate. Even if the father is known to be violent or abusive, we still think that it is right that his name should nevertheless be registered on his child’s birth certificate. The only point at issue is that if he makes a declaration to the registrar independently of the mother and before her, and if the mother confirms his paternity, then he will automatically gain parental responsibility, however much she might fear for her safety or for that of her child. We know that this is likely to be a danger only in a very few cases—perhaps where the father is manipulative and devious—but we need to acknowledge that it may happen more often if more unmarried fathers are not just encouraged to sign the birth register but that it will be compulsory under this Bill.

The Government are keen to say that registrars should not be expected to police and screen individuals to guess which fathers might be violent or abusive and which will not. We do not expect registrars to fulfil this role either. We want them to have appropriate guidance so that they can inform mothers of the course of action that they can take if they fear for their, or their child’s, safety. Will registrars, for example, be able to say to the mother that if the purported father of her child has already made a declaration, she may wish to take advice before confirming paternity?

In the vast majority of cases, parental responsibility is a thoroughly good thing. However, as the noble and learned Baroness, Lady Butler-Sloss, pointed out, occasionally the courts deny it to a parent, usually a father, because it can in certain circumstances be a danger to the mother and child. I look forward to the Minister’s reply. I beg to move.

Baroness Butler-Sloss: My Lords, I intervened on the point of joint registration for the first time on Report. I support the points made by the noble Baroness, Lady Thomas of Winchester. I was slightly dismayed to find that the Minister did not accept what I said on Report. I gave specific evidence—I know that in this House I should not “give evidence”—from my experience as a judge in my former life, where I heard cases in which a tiny minority of fathers had misused parental

responsibility. It remains a real concern that this tiny group of cases will fall through the net under the joint registration scheme in the Bill.

I reiterate to the Government that they must not treat as unimportant the tiny group of men who get parental responsibility because of joint registration and may misuse it. I have tried these cases. Other judges who have also tried the cases sometimes rule that fathers who have acquired parental responsibility are not entitled to use it. They may keep it—fathers who are married to mothers automatically have it—but occasionally an order is made saying that they cannot use it. I should like the Government to take account of this and not treat what I said as lightly as I fear that they did, as if this was not a matter of real concern. In a tiny group of cases, it remains a matter that the Government should treat very seriously. I very much support what was said by the noble Baroness, Lady Thomas.

Lord McKenzie of Luton: My Lords, I am grateful to the noble Baroness, Lady Thomas, for giving us the chance to conclude our discussion on this matter, following the meeting that we had last week. I respond for the Government with the agreement of my noble friend Lady Crawley, who has led for us on this issue. For understandable family reasons, she was not able to make that meeting. I say to the noble and learned Baroness, Lady Butler-Sloss, that I would hesitate not to accept her advice—that would be a slippery slope indeed.

I start by addressing concerns around the fact that these provisions will result in more unmarried fathers having parental responsibility than is currently the case. That is our intention. It is important to recognise the positive role that the vast majority of fathers play in their child’s life and the value of their involvement in terms of outcomes for the child. The noble Baroness, Lady Thomas, was very clear on that point as well. On Report, we debated a suggested link between parental responsibility obtained by a parent through birth registration and an increased risk of harm to mothers or children. It was argued that, notwithstanding the considerable benefits that we all think will flow from joint birth registration, there might be an extra risk arising in respect of a few manipulative individuals who could exploit parental responsibility.

We accept that some fathers can be abusive. However, as we said on Report, we have seen no evidence that the fact of having parental responsibility leads to an increased risk of such abuse. This is despite having consulted with stakeholders on the issue, and having discussed detailed concerns—for example, relating to access to medical and other information—with relevant organisations including the Department of Health. However, we are keen to engage in an ongoing dialogue with stakeholders in order to understand better such concerns.

If we were to accept that this could place either the mother or the child at risk of harm—I stress that we have not seen evidence supporting this—then the remedy would lie not in imposing on the registrar extra responsibilities to police and screen out relevant individuals. We believe that the remedies that are available in other situations should also apply here

and that it should remain a matter for the courts. We acknowledge that there might be, as there are now, a small number of cases where the courts decide, based on evidence from both parties and in the best interests of the child, that a father's parental responsibility should be restricted, or indeed that he should not have parental responsibility at all. However, merely because the courts considered the removal of parental control to be an appropriate sanction or part of the remedy, it does not follow necessarily that the existence of parental responsibility caused the abuse, manipulation or violent behaviour on the part of the father. Whether we agree or disagree on the matter, we travel the same path in agreeing that it should be for the courts and not registrars to determine what remedies should be applied.

6.15 pm

A range of safeguards is already in place to protect children and vulnerable adults. For example, local authorities have a general duty to safeguard and promote the welfare of children in their area who are in need. Some of these children will themselves be parents. There are also a range of services across the country to support and promote stable family relationships, to help parents whose relationships are breaking down and to support and protect victims of domestic violence, which has been a particular concern during debate on these provisions.

It is very important that mothers are fully informed about their options if they have concerns about the father having parental responsibility or if they feel that either they or their child could be at risk of abusive behaviour or violence from their child's father or another person. For that reason, I offer a commitment to noble Lords that we will work with relevant partners and stakeholders—including Gingerbread, the NSPCC, citizens advice bureaux and other experts in the field—to develop detailed guidance for parents, with the aim of ensuring that parents who fear domestic violence are given help and advice in accessing the protection that they may need.

We shall work also with a range of professionals who interact with parents and prospective parents, with the aim of making sure that individuals are given appropriate advice where they have concerns about domestic violence. Registrars will be able to provide information about relevant services when the issue of domestic violence is raised with them, and we will work closely with the General Register Office and stakeholders to determine the most appropriate way to cover these issues in guidance for registrars. The noble Baroness, Lady Thomas, asked whether the guidance would cover whether mothers should be advised not to recognise the father. I do not believe that that will feature particularly, but I do not want to pre-empt what should be in the guidance. That must be worked through in detail. It is sometimes the case that those who most need help are those who are least able to access it. For this reason, we will do all we can, in the context of the new birth registration provisions, to help parents navigate their way through the system of support and protection that already exists to help them.

I turn briefly to Amendments 29 and 30, which aim to include a commitment in the Bill that we will review specific sections within three years. They relate to new

Sections 2D and 10B of the Births and Deaths Registration Act 1953, which enable a man to come forward either before or after the birth has been registered and provide his details to the registrar. Subject to confirmation from the child's mother that he is the father, the man will be named on the register.

We welcome the spirit of the amendments. It is already our intention to monitor the operation of the policy closely. Officials are working with the Office for National Statistics and others to develop new data sets, with the aim of assessing both how the policy is being used and its impact. For example, we shall look closely at the reasons for sole registrations and, where a birth is jointly registered, the means by which joint registration took place. This will enable us to identify those cases where the father is registered by virtue of new Sections 2D or 10B.

In that context, I also want to refer to the Law Commission's report on post-legislative scrutiny and the Government's response. The report sets out that three to five years after Royal Assent the responsible department should submit a memorandum to the Select Committee containing a preliminary assessment of how the Act has worked in practice. The Select Committee will then decide whether it wants to conduct a fuller post-legislative inquiry. We will be following this approach for these birth registration provisions.

Although I understand the spirit behind the amendments, I am afraid that they are technically deficient. However, I think that they were tabled to provide an opportunity to have this debate, which I welcome. They would alter the 1953 Act, not the Welfare Reform Act 2009. Therefore, although the amendments were tabled with the best of intentions, I cannot accept them. However, I certainly give an undertaking that we will closely monitor the operation of the policy on the basis of detailed statistics in co-operation with the General Register Office, and that we will be conducting an assessment of how the provisions are working, in line with agreed arrangements for post-legislative scrutiny. On the basis of those commitments, I hope that the noble Baroness will withdraw her amendment.

As this may be the last time I am on my feet before we conclude Third Reading, perhaps I may say a few words of my own. I thank all noble Lords who have contributed to the Bill from every side of the House. We have heard a lot of knowledgeable and often powerful contributions. Although the Government have been pressed hard on some issues, I believe that the debate has always been constructive. I thank my noble friend Lady Crawley and, before her, my noble friend Lord Tunnicliffe for their excellent support. It can at times be lonely being a Minister on a Bill, and their help has been extremely welcome.

I also thank the noble Lords, Lord Skelmersdale and Lord Taylor, for the role that they have played. Although it was a shame to lose the noble Lord, Lord Skelmersdale, after the Committee stage—I have always enjoyed my exchanges with him during the passage of many, many Bills—it was a pleasure to welcome the noble Lord, Lord Freud, on Report. It is always tough to join a Bill half way through but, if I may say so, the noble Lord has done so with skill and very good humour.

[LORD MCKENZIE OF LUTON]

Thanks are also due to the noble Baroness, Lady Thomas, and the noble Lord, Lord Kirkwood, for their challenge, support and usual good grace. As ever, they have championed the cause of some of the most disadvantaged people in our society. Thanks are due to noble Lords too numerous to name—although I should mention the noble Baroness, Lady Meacher, on the Cross Benches—who have played an important part in our proceedings and have been responsible for many of the important changes that we have made in this House. The drugs provisions, which have already been mentioned, have been amended and improved largely due to the challenge and expertise of those noble Lords. This is the first Bill in which I have been involved where an entire clause—that on the right to control—has been largely conceived on the Cross Benches. That is indeed co-production at its very best.

I also take the opportunity to thank the many individuals and organisations that have been so important in the development and passage of the Bill. I am grateful for the time that they have taken to make their representations and for their enthusiastic and knowledgeable engagement, which has ensured that the Bill has gone through a thorough examination.

Finally, I thank the tremendous Bill team and all the officials who have worked so tirelessly on the Bill. We do not thank officials enough. They have shown dedication, patience and good humour in supporting us during the passage of the Bill, and I am sure that noble Lords agree that they deserve our thanks.

We have done what this House does best and have improved the Bill. It is a good Bill and a much better one for noble Lords' involvement.

Baroness Thomas of Winchester: My Lords, I particularly thank the noble and learned Baroness, Lady Butler-Sloss, for her contribution to the short debate on my amendment, and I thank the Minister for his very full reply. It would be churlish of me to go into any more arguments about this matter—I think that we have probably heard enough about it. We look forward to the ongoing dialogue which has been promised. On that note, I beg leave to withdraw the amendment.

Amendment 29 withdrawn.

Amendment 30 not moved.

Bill passed and returned to the Commons with amendments.

Policing and Crime Bill

Report (1st Day)

6.24 pm

Amendment 1

Moved by Baroness Miller of Chilthorne Domer

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

“Transparency in policing

As soon as possible, the Secretary of State will, under section 5 of the Freedom of Information Act 2000 (c. 36) (further power to designate public authorities), amend Schedule 1 of that Act to include the Association of Chief Police Officers.”

Baroness Miller of Chilthorne Domer: My Lords, I am glad that we are returning to the Bill on Report because there are still many extremely important issues to debate. I am sure that the Minister shares with me some disappointment that we have to start the first day of Report at 6.25 pm, giving us less than three hours to debate it today. Of course, we will abide by the rules of Report but we will not be able to curtail our arguments in support of our amendments. The Government chose to make two Statements today, which meant that the Bill has been delayed until now. Nevertheless, there are still huge issues to debate, and I warn the Minister that we will not be able to treat them with any less importance just because we have begun several hours late due to the Government's timetabling.

I turn to Amendment 1, which returns us to the issue of transparency in policing—policing being the subject of Part 1 of the Bill. In Committee, we debated whether ACPO should be subject to the Freedom of Information Act. The Minister helpfully said that, although ACPO was registered as a private company limited by guarantee and was not open to FoI requests, it seemed to him that there were anomalies. I had rather hoped that between Committee and Report there might be a chance for the Government to solve those anomalies. However, no solution has been forthcoming and therefore I have tabled this modest amendment. It merely seeks to give the Government the power to solve the anomaly to which the Minister referred in Committee as regards the FoI Act, as they would be able to designate ACPO in the interests of transparency, and they would be able to do so as soon as was practicable.

This whole issue is of critical importance. The noble Baroness, Lady Hanham, put her finger on it in Committee when she said that,

“we need to understand the status of ACPO, not just as an organisation with members but now in its position of having a statutory role in appointments”.—[*Official Report*, 22/6/09; col. 1366.]

It is that statutory role that leads me to table this amendment because I believe that ACPO's transparency is fundamentally important. Although it may not be governed by any statute and is a private company limited by guarantee, it now has a constitutional role to play. As we move on to the Report stage of a Bill that gives ACPO new powers, we need to have regard to that essential need for transparency.

ACPO says that it is aware of this debate. Its website is clear that it is not a staff association, although in Committee the Minister said that effectively it was. However, I believe that he was thinking of the Chief Police Officers' Association. ACPO's work involves setting strategy, and it has developed to the stage where we believe that it should now be subject to the Freedom of Information Act. It is doing a lot of work in the public interest. It sets guidance on all sorts of things of incredible interest to the public, from the ACPO strategy for children and young people, for example, to guidance on the use of incapacitant spray. It also gives guidance on a subject that is very topical at the moment—cannabis possession for personal use, although when I looked at its website today, that was currently unavailable, which may say something about

the state of the controversy. The public need to know as much as possible about discussion in ACPO, advice received and so on. It is right that it should be subject to the FoI Act. I beg to move.

6.30 pm

Baroness Harris of Richmond: My Lords, I support my noble friend Lady Miller of Chilthorne Domer. At the outset I declare an interest as a former police authority chair and, at present, as a vice-president of the Association of Police Authorities.

I referred in Committee to an article written by Henry Porter in the *Guardian* online on Tuesday, 10 February. With your Lordships' permission, I should like to return not to what I said then but to the article, as it is very pertinent to the amendment. It stated:

"Too often it seems ACPO is the driving force behind policy ... Now the police have set up the confidential intelligence unit to monitor the political life of this nation. The only reason we know of this is because the Mail on Sunday followed up an internal police job advertisement for the head of the confidential intelligence unit, who would work closely with government departments, university authorities and private sector companies 'to remove the threat of criminality and public disorder that arises from domestic extremism'. The story tells us that the CIU—

the Criminal Intelligence Unit—

"will also prevent details of its operations being made public ... Of course there are extremist groups hoping to make use of troubles ahead but it is surely a matter of the gravest urgency that parliament involves itself in defining the limits of the CIU's activity and bringing ACPO into the 21st century by forcing it to become more accountable and open. We cannot have the police making decisions about what constitutes legitimate politics in this country".

Quite, my Lords.

Lord Skelmersdale: My Lords, as the House will recall, my noble friend Lady Hanham had sympathy with this amendment in Committee. Later parts of the Bill give ACPO a role in the appointments panel for senior officers but, as I understand it, this is the first time that ACPO will be named, and one of its roles defined, in legislation. Will that make ACPO a statutory body? There needs to be clarity about this. I agree with the noble Baroness, Lady Miller, that if ACPO is to have a statutory role in senior appointments then it will have to have proper accountability not just to its members but also to the public. Of course, there is also a wider point. The Flanagan review highlighted the confusion that has arisen from a lack of clear understanding about the roles and responsibilities of various bodies and organisations in the policing sector. Placing ACPO in legislation in a statutory role—if indeed the Bill does that—without proper clarification of its responsibilities and without scrutiny will do nothing to help the implementation of review recommendations.

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My Lords, the purpose of the amendment is to make the Association of Chief Police Officers subject to the Freedom of Information Act 2000. All individual police forces are already subject to requests made under that Act. Furthermore, ACPO already seeks to place as much information as possible in the public domain, and the details of its accounts are available to view at Companies House.

Nevertheless, having said all of that, the Government agree with the sentiments behind this amendment and have set out their proposals for a future Section 5 order, under the Freedom of Information Act, to include ACPO. This issue was discussed on the first day in Committee, in July, and on 20 July I placed a letter in the Library to highlight the Government's response to the consultation entitled *Freedom of Information Act 2000: Designation of Additional Public Authorities*.

By way of background, in October 2007 my right honourable friend the Prime Minister announced a public consultation on extending the coverage of the Freedom of Information Act to cover additional public authorities by way of a Section 5 order. As part of that consultation ACPO nominated itself as a suitable candidate to be covered by the Freedom of Information Act and subsequently it was included on the list of persons proposed for the Section 5 order. The government response to the consultation was published on 16 July 2009. It proposed an initial, focused Section 5 order to be accompanied by action outside the Act to promote proactive publication and openness by reminding public authorities and contractors of the existing guidance on access to information, which should inform contracting practices and responses to requests for information.

On 9 September the Government wrote to ACPO inviting it to outline any matters that it thought the Secretary of State should take into consideration before deciding whether it is appropriate to include it in a Section 5 order and asking for its views on the length of time that ACPO would need between making an order and its commencement. It is clearly important that any new body being brought within the scope of the Freedom of Information Act is given sufficient time to prepare, and that includes establishing a publication scheme and training staff so that they are adequately resourced to deal with requests. It is quite something to get all that in place, as I know from being in the Home Office.

The Government propose bringing forward the Section 5 order early in the 2009-10 Session and it is a requirement of the Freedom of Information Act that the order be debated in both Houses. As the noble Lord, Lord Skelmersdale, said, ACPO is a private company limited by guarantee and is not established by statute. It is, however, referred to in statute. Both ACPO and the APA are referred to in the Police Act 1996, for example, where Section 37A places a duty on the Secretary of State to consult both ACPO and the APA on strategic priorities. I hope that that clarifies the issue.

I hope that I have been able to reassure the noble Baronesses that the matter is in hand and that we are moving in that direction. On that basis, I invite the noble Baroness to withdraw the amendment.

Baroness Miller of Chilthorne Domer: My Lords, will the Minister clarify one issue before I decide on the fate of this amendment? Will he kindly repeat the reply that he gave to the noble Lord, Lord Skelmersdale, about whether this Bill creates any form of statutory role for ACPO?

Lord West of Spithead: My Lords, this Bill does not make ACPO a statutory body, but it is referred to in statute, as it has been previously.

Baroness Miller of Chilthorne Domer: My Lords, given that, and given the tremendous progress that the Government have made, which is heartening, I am anxious—as I am sure the Minister is, because he has delved deeply into this—that this key issue in terms of transparency and policing is not lost in the busy six months of next year. Given that the Government have made so much progress on this, “as soon as possible” will be easy to fulfil, and it would help all concerned if this provision were in the Bill. I therefore want to test the opinion of the House.

6.39 pm

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6.49 pm

Clause 2 : Police Senior Appointments Panel

Amendment 2

Moved by Baroness Henig

2: Clause 31, page 36, line 33, after “paragraph” insert “5A or”

Baroness Henig: My Lords, in speaking to this series of amendments about the senior appointments panel, I must first declare an interest as the president of the Association of Police Authorities and as the chair of the Security Industry Authority.

I listened carefully to what my noble friend the Minister had to say about this part of the Bill when it was debated in Committee and I have considered the

issues further since then. I have accepted some of the points that he made, at least in part, such as the need to ensure flexibility in the functions of the senior appointments panel. The Minister will see that I have also accepted his point that creating a statutory body for senior appointments will give a stronger, more strategic and more proactive influence to the panel in the appointment of senior officers. However, I do not agree with some of the other points that he made in Committee. My amendments today therefore deal with my remaining concerns, which are substantially about the composition and some of the functions of the panel.

I start with the composition of the panel. I applaud what the Minister said about the Government's intention to make it more independent, but I am not convinced that this is actually reflected in the Bill. It does not anywhere mention the word "independent" and seems to give the Home Secretary two bites at nominating members to the panel—first, by appointing the chair and, secondly, by appointing representative members.

It is absolutely essential to success that the panel should be owned equally by its tripartite partners and should be seen to be so owned. Its membership must reflect that. If that tripartite balance is not built into its composition and the panel is skewed in a way that might be used to favour the centre to the detriment of local concerns and interests, that will undermine the credibility of British policing in one of its most important functions—that of appointing the most senior police leaders in the country.

I know that the Minister will assure me that it is not the Government's intention to act in this way, but legislation must have regard to the future and we must consider how it could be used in 10 or 20 years' time. My amendment would ensure that an appropriate tripartite balance would be maintained in future on the senior appointments panel; I cannot think that the Minister would object to that. There is nothing to prevent the Home Secretary or, indeed, either of the other two bodies from appointing independent people as their representatives on the panel, suitably endorsed by the Office of the Commissioner for Public Appointments or a similar body. Indeed, I would be happy with that approach. However, the key and most fundamental point remains that, if this is to be a statutory body, the correct position for its governance—that it must be and must be seen to be tripartite—should be reflected in its statutory composition.

Moving on, I have reiterated a small earlier amendment about the payment of fees of panel members. That is to overcome difficulties experienced in the past with similar bodies, where representatives are required to sit on national organisations but the national organisation will not reimburse its members unless they are government appointees. The bodies that appointed them are left to pick up the bill. In this context, the money ultimately comes out of the public purse, but in the first instance from the budgets of much smaller organisations where the burden can have a disproportionate impact on what they are then able to resource elsewhere.

I move on to the functions of the panel. Although I have accepted the Minister's point about flexibility in being able to confer additional functions, I still do not

think that this section is transparent enough about what some of the obvious functions of the panel should be. I am unhappy about leaving this entirely to regulations about additional functions, when those are in fact core functions for the panel, on which its effectiveness will be judged.

Let me remind the House of the panel's remit. It effectively conducts a co-ordination and pre-appointment advisory and screening process for potential senior candidates to potential senior police posts. That then enables police authorities to screen a range of potential candidates; it enables the Home Secretary to screen which candidates he or she will approve; and it enables chief officers to gather information about senior officers who may soon be joining their team and come under their command. Although its duty to advise the Home Secretary is picked up in the Bill, most of the rest of its remit is not.

It is crucial to make it clear that this is a pre-appointment screening process advising all the parties concerned, not just the Home Secretary. The vagueness of the Bill's wording seems to blur that reality. At best, it is less than transparent about what the functions of the panel will be; at worst, the vagueness might be used to move into territory that could interfere with a local appointment itself. I am particularly concerned that the functions of the panel should not be tied back to facilitating the existing statutory functions of the key players under the current wording—the role of police authorities to appoint chief officers and the role of the Home Secretary to approve those appointments. I fear, given the focus on the national role that the proposals represent, that such an approach could be used to restrict the role of police authorities to make appointments locally rather than to facilitate it.

The current wording also fails to acknowledge that a key function of the panel must be to preserve the delicate balancing act between national strategic considerations and local requirements in appointing senior officers. That goes back to earlier points about the importance of ensuring that tripartite governance is essential and central to what the panel does.

We can all agree that the system for appointing senior officers needs to be improved to overcome existing problems and to make it more proactive and more strategic. My amendment about developing criteria for selection and prioritisation is intended to do that. I do not agree with the Minister's criticism of my similar amendment in Committee, which he said would not allow the panel to undertake other functions, such as co-ordinating the appointment round. Co-ordination is certainly implicit in the need to prioritise appointments, but I point out that the existing wording does not mention co-ordination either. However, I accept the Minister's point about additional functions and this might be one of the matters specifically included there.

The important point is that my amendment would make it a core function of the panel to develop ways to overcome the problems that have beset the process for many years. These include issues such as difficulties over the batting order for authority chief officer appointments, bottlenecks, lack of transparency and lack of information. Those problems are getting worse and must be addressed.

[BARONESS HENIG]

Last year, a police authority was given a late slot by the senior appointments panel for an important senior post and shortlisted all the six applications that it received, mindful that a number of nearby and adjacent authorities were allocated an earlier slot and that there could therefore be some withdrawals from the shortlist. Indeed, the authority found itself down to first three and then two applicants by the day of the appointment. After consultation with the chief constable and HMIC, it cancelled the process, made a temporary appointment and asked for an earlier slot in the timetable for this year.

It is not just that police authority that feels that a choice of one from two is entirely unsatisfactory for a post at that level. There is a general view that, at present, the system for drawing up the timetable for senior appointments is not working effectively and that potential candidates are themselves being very selective and are not always willing to move around the country and uproot their families at short notice, thus compounding the problems that police authorities face.

I am concerned that such problems should not be dealt with at the centre in a high-handed and pre-emptive way. The police service does not operate like the Armed Forces. Strong issues of locality are involved and solutions have to be found, and can best be approached, through a genuine three-way partnership operating through the senior appointments panel. That is what I am trying to achieve with these amendments.

My final amendment deals with consultation about conferring additional functions on the panel. I acknowledge that the legislation currently allows for consultation with the panel and that its members will include representatives from the APA and ACPO, but an individual member of the panel may not have sufficient knowledge of some of the wider issues or developments in the policing landscape, or some of the local issues relevant to particular areas or regions, and may not therefore be able to make wholly informed decisions about them. Given the important effect that decisions about functions could have, and given that appointing senior officers is first and foremost the statutory role of police authorities, it is important that police authorities should have a separate voice about what they think the panel should do. I have therefore included wording to ensure that the APA is consulted on this important matter.

I am still not entirely happy about some of the other provisions in this part. For instance, I am not convinced that only the Secretary of State should be able to refer HMIC reports to the panel. However, in the spirit of focusing on the most important matters at this stage, I have limited my amendments to those areas that I consider to be of central concern and I therefore beg to move.

7 pm

Baroness Harris of Richmond: My Lords, I support the noble Baroness, Lady Henig, because the amendments are designed to improve the current senior appointments panel proposals to guarantee tripartite balance in its membership and to be much clearer about its functions.

I particularly welcome her points about the pre-appointment screening, with which I wholeheartedly agree. Once again, I feel that the powers of the Secretary of State are being brought to the fore, whereas it would be much better if we trusted the tripartite structure to deliver on these proposals.

Baroness Neville-Jones: My Lords, as in Committee, we have some sympathy with this amendment. The noble Baroness, Lady Henig, is right to highlight the significant powers that the Secretary of State is taking over the constitution of the panel. We understand the need for some flexibility, but the failure to specify the number of members or the relative proportions of the representative members means that in future the make-up of the panel could be very different from the model envisaged or from what we believe we are putting through your Lordships' House. I am sure that the Minister accepts that a balance needs to be struck between national influence and local interest in appointing senior police officers, but we are not at all sure that the Bill guarantees what we regard as an appropriate balance. That point was powerfully made by the noble Baroness, Lady Henig.

On Amendment 5, we have sympathy with the need for the Bill to be more specific about the functions of the panel. There is a related issue: the power of the Secretary of State to confer additional functions on the panel. The Minister wrote to follow up a question that we raised in Committee about the scope of this power. He specifically mentioned that the Secretary of State might wish to confer a function in relation to the co-ordination of appointment rounds to the panel. I understand that the Government are still thinking about this co-ordination question and how it can best be achieved. It would be helpful if the Minister could say when he expects that work to be completed.

We accept that the Bill provides flexibility for panel functions, which could be useful, but can the Minister say why any changes will be made by negative statutory instrument? In his letter, he said that any changes would be subject to parliamentary scrutiny. Does he consider that an appropriate level of scrutiny?

Lord West of Spithead: My Lords, Amendments 2 to 6, proposed by my noble friend Lady Henig, would make changes to the statutory senior appointments panel clause and stem from her concern that the tripartite balance may be damaged in the membership and operation of that panel.

This issue was discussed in Committee and I can confirm, as I did then, that the Government are committed to working through the tripartite to get the best possible leaders for the future in policing. A more proactive statutory senior appointments panel will play a key role in delivering this. The function of the police authority to appoint senior officers set out in the Police Act 1996 is unaffected by the Bill. The panel will provide advice to Ministers about the approval of candidates for appointment and will increasingly take a more strategic overview of the talent pool, which we all believe to be necessary. We have talked about this before in the House.

Amendment 2 would remove the possibility of appointing independent members to the panel while retaining an independent chair. My noble friend Lady

Henig spoke about the independence of the panel. I understand that underlying this amendment is a concern that a Home Secretary could unbalance the panel. However, as set out in the policing Green Paper, the Government believe that the new panel should have a greater independent element so that there is a broader perspective on leadership. We feel that this is important and needs to be developed and grown within the police service. This is established by Clause 2. The provision in new Section 53B(2)(a) is intended for appointing a small number of independent members. Indeed, as the current non-statutory arrangements already include an independent member, the effect of the amendment would be to remove this perspective.

The precise number of independent members will be subject to consultation with the APA and ACPO as part of the panel constitution. Appointments will be made according to the Office of the Commissioner for Public Appointments principles. This means that they will be made on merit and that there will be openness and transparency in the appointments. Such appointments are made when people apply for certain jobs. There is an interview panel that makes recommendations to Ministers. We will discuss with tripartite partners how they might best be involved in the selection process for independent members.

Amendment 3 is also concerned with the composition of the panel and specifies that the representative members of the panel shall be of equal numbers. Again, the Government share with the Association of Police Authorities the view that a balanced tripartite contribution to the panel is important for it to deliver improvements to the appointments system. This is why the Bill specifies the ability of the APA, the Association of Chief Police Officers and the Secretary of State to nominate representative members to the panel.

However, while I understand the concerns behind this amendment about how, in theory, a future Home Secretary could unbalance the panel to exercise undue influence, I do not share them. Police authority appointment of candidates and the approval role of Ministers are statutory roles contained in the Police Act 1996. They are not changed by the establishment of an independently chaired statutory panel to provide advice. Seeking to appoint large numbers of representatives to the panel would only serve to undermine the confidence of authorities and the service in the work of the panel. I therefore believe that it is unnecessary to state the tripartite balance in the Bill and that the current proposals, whereby the panel constitution will specify that the tripartite is equally represented on the panel, are adequate.

Amendment 4 would allow the Secretary of State to pay fees to members of the panel representing the tripartite. It was not our intention to remunerate representative members for attending the panel, which is why the clause is drafted as it is. This is consistent with the statutory arrangements for the Police Negotiating Board.

Amendment 5 sets out particular functions of the panel. The panel will advise the Secretary of State in his role in chief officer appointments and ensure that he has sufficient information to enable him to undertake his role. It will also advise the Secretary of State and

police authorities in developing the senior talent pool in policing, which we all felt to be very important. There is also important work to do to look at the assessments process for chief officers to benefit all involved, which the senior appointments panel has already begun to consider and on which there will be wider consultation. A key feature of the improved senior appointments process will need to be consideration of local needs alongside the strategic picture, a point that was made by a couple of speakers. Local need is important.

The Government are content that the Bill already provides adequately for the panel to undertake its functions, but there is also scope to provide for additional functions—a point mentioned by my noble friend Lady Henig—for the panel where needed, for example, to develop an approach to co-ordinating appointment rounds in order to increase the transparency and effectiveness of the process. I know that there are particular concerns from police authorities about co-ordinating the appointment of assistant chief constables and commanders on promotion following the strategic command course.

Amendment 6 specifies that the Secretary of State must consult the APA before conferring additional functions on the panel. New Section 53D(4) already specifies that the panel, on which the APA will have membership, shall be consulted. Therefore, I believe that the existing provisions meet this intent and that the amendment is unnecessary.

In summary, Clause 2 already provides the framework needed to oversee and manage police senior appointments most effectively. We understand how important they are, but I do not agree that the amendments are necessary.

The noble Baroness, Lady Neville-Jones, asked about the timing of the work that we are doing. It will be done within 12 months, following the commencement of the consultation and the SIs being in place.

On the basis of my explanation and assurances, I hope that the noble Baroness will withdraw her amendment.

Baroness Henig: My Lords, I am most grateful to the noble Baronesses, Lady Harris and Lady Neville-Jones, for their comments. The Minister acknowledges the legitimate concerns that we all have, the importance of the tripartite relationship and its being seen to be at the heart of policing, the importance of the local/national balance, the importance of co-ordination and the importance of what this body needs to do, but it is extremely frustrating that there is no acknowledgement that words need to be put into action. One can say anything in this House, but to make it happen out there is another matter entirely.

Some of us have knowledge of these affairs and have participated in them outside. On many occasions, we have been hampered by Home Office regulations, by the failure to spell things out and by vague legislation that we have to amend later on. It is frustrating to sit here and foresee how things may go wrong in the years ahead and to know that we will probably have to revisit some of these things. At this point, the Government and the Home Office see no need to do anything. I hear the Minister's words and accept them; I am just

[BARONESS HENIG]

sorry that he is not prepared to enshrine this in such a way that some of these things will actually happen. However, at this point in the proceedings, and having heard what the Minister has said, I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendments 3 to 6 not moved.

Clause 3 : Regulations about senior officers

Amendment 7

Moved by Baroness Harris of Richmond

7: Clause 35, page 41, line 32, leave out subsections (6) and (7) and insert—

“(6) The first draft order made under subsection (1) may not be made unless the draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.

(7) The draft of the statutory instrument containing the first order made under subsection (1) shall be laid before each House of Parliament within three months of the coming into force of this Act.

(8) Any subsequent order made under subsection (1) may not be made unless a draft of the statutory instrument containing the order has been laid before and approved by a resolution of, each House of Parliament.”

Baroness Harris of Richmond: My Lords, in moving Amendment 7, I shall also speak to Amendments 99 and 100, which are grouped with it.

My original amendment in Committee sought to remove this part of the Bill altogether because of my concerns about the wide-ranging powers that it confers on the Secretary of State, yet again, to make orders about senior appointments and related matters. I reluctantly accept that the Government are determined to go ahead with the clause because they believe that it supports the previous clause on the senior appointments panel. By this logic, if the senior appointments panel is to be statutory, this clause needs to be, too. I accept that this is at least consistent, even if I am still sceptical about it being entirely necessary. Amendment 7 therefore seeks to improve the clause rather than to dispense with it altogether.

I remain concerned about the wide and rather unspecific nature of the powers which the clause gives to the Home Secretary. Having heeded what the Minister said about the important role of Her Majesty’s Chief Inspector of Constabulary in advising the senior appointments panel, and conscious that the clause is intended to support the panel’s work, I have linked the two together. Amendment 7 suggests that the powers of the Secretary of State should be exercisable, subject to the advice of the HMCIC, and that any proposed regulations are in the best interests of appointments to, or departures from, senior posts.

The amendment also suggests that the Association of Police Authorities and the Association of Chief Police Officers must be consulted before regulations are made. This reflects their important role in senior appointments. Let us not forget, as this Bill seems to,

that the authorities are the ones that appoint senior officers. The tripartite structure should not be overlooked when developing regulations that will affect them in a very important area of their business, as we have already heard this evening.

These changes would provide appropriate and proportionate safeguards in the Secretary of State’s exercise of these otherwise very wide and vague powers, which, as with many other parts of the Bill, are entirely inconsistent with the stated government aim of greater devolution.

7.15 pm

Amendments 99 and 100, again, address the order-making powers, although I am grateful to the Minister for responding to some of my concerns about specific order-making powers by referring to the Secretary of State’s responsibilities for national security and to the need to have powers to ensure that this function can be discharged effectively. However, I hope he recognises the delicate balance of the constitutional arrangements for policing, which reflect that. In this country, we have long cherished policing by the people for the people, not policing by the state. The amendments would ensure that no one is above the law and that policing is by consent and not coercion.

To achieve this, police officers must have operational independence, at least in theory free from political and other unwarranted interference by the state or by anyone else for that matter. Chief police officers must be able to exercise their professional judgment in any given situation and be free to act without fear or favour. This does not mean that they cannot be held to account for their actions after the event, but their decisions should not be interfered with before and during the event. The police authorities are local bodies made up of local people, so to some extent they are the “people” element in the equation. It is their job to set the strategic direction of the local force while bearing in mind the balance of national and local needs. I feel bound to keep stating this, because for some reason the Home Office does not seem to understand it.

The police authorities hold the chief police officer to account on behalf of local people, which again reinforces the principle that policing is not conducted by the state. This tripartite balance is created very carefully. It is, however, delicate and easily upset, and since the original Police Act was passed in 1996 the Government have made progressive attempts over the years to chip away at the edges in the search for ever more power. Of the innumerable policing Bills that have been passed since then—I have been party to most of them—none has seriously tried to give powers back to local forces or authorities.

Despite many government papers of various hues—green and white—that have claimed to do the opposite and to support greater devolution, it happens all the time. The Government just do not seem able to help themselves. This is not assisted by the general malaise of law by knee-jerk reaction, which usually but not always stems from the latest media frenzy. This makes for incoherent legislation that is rarely thought through or tied to other longer-term strategies and developments. This, in turn, leads to an addiction to regulation-making

powers. Since the latest law, let alone its practical impact, has not been thought through in the first place, a safety valve is always needed to tweak it and get it running half right. I fear that we have another example of this kind of thinking in the Bill.

By the Minister's own admission, he is not clear exactly what regulations might be needed under Clause 3 because the Government are waiting for the senior appointments panel to tell them. To my mind, it is depressing and unacceptable that we should have so many open-ended regulation-making powers. It is bound to affect the tripartite balance, tipping it even further to the centre, and I remain unconvinced that some of the regulations are necessary at all. Many could and should be left to local discretion. Where this is not possible, the sort of measures that they will contain should be better described and more tightly defined before they are put into legislation. At the very least, they should be made subject to positive procedures to ensure that Parliament has a chance to scrutinise what is being proposed and whether it is necessary. This is what these amendments propose.

Some of these powers could be very far-reaching and significant—I have in mind particularly those that relate to collaboration—but they all have an impact on the balance between the central and the local in policing. Given that this has been severely eroded already, we need to be mindful of the aggregate impact and ensure that constraints are put into place. I beg to move.

Baroness Neville-Jones: My Lords, on these Benches we think that Amendment 7 is sensible. Neither the Government nor the Bill say what the process for drawing up any regulations will be. All the organisations that the noble Baroness mentioned have legitimate interests in this area and should expect to be consulted. On a related issue about pay-offs for senior officers to whom some of these regulations will apply, in his letter to my noble friend Lady Hanham, the Minister did not say whether such powers already existed under employment law. Perhaps he could now do so.

In relation to Amendments 99 and 100, I have already spoken about the need for adequate positive parliamentary scrutiny and I will not repeat that point, which I think is a strong one.

Lord West of Spithead: My Lords, these three amendments relate to a concern about the regulation-making powers that the Bill gives to the Secretary of State. However, our highly respected Delegated Powers and Regulatory Reform Committee has scrutinised the Bill and did not find the powers to make secondary legislation inappropriate. Amendment 7 is to Clause 3, which specifies additional matters that may be included in regulations made under Section 50 of the Police Act 1996. That Act provides that before regulations are made under Section 50 either the Police Negotiating Board or the Police Advisory Board must be engaged. As the Association of Police Authorities and the Association of Chief Police Officers are members of the Police Negotiating Board and the Police Advisory Board, it is unnecessary to further specify a duty to consult them in legislation. I believe that that answers the point made by the noble Baroness, Lady Neville-Jones, about consultation.

Amendment 7 also creates an approval role for the Chief Inspector of Constabulary under Clause 3. While he will continue to have a key role in advising the senior appointments panel, he will not chair the panel. It will no longer be appropriate for him to hold this role under the new system as HMIC now has a strengthened role for performance improvement. Therefore, while the expert advice of the chief inspector will be important in improvements to the appointment and departure arrangements for chief officers, including changes made through regulations, I do not believe that it is right for him to gain a statutory role in regulations under Clause 3. This amendment would give the chief inspector this role in relation to all matters that may be included in regulations under Section 50 of the Police Act 1996, which includes police pay, allowances and annual leave. We do not think that it is appropriate for the chief inspector to have a role in these matters.

Amendments 99 and 100 amend Clause 111, which contains a general power to make an order containing supplementary, incidental or consequential provisions for the purposes of the Act. However, these amendments do not affect the powers to make secondary legislation in Part 1, whereas I understand that the intention of these amendments is to make all those powers subject to the affirmative resolution procedure. Therefore, the amendments are defective.

The noble Baroness, Lady Neville-Jones, asked about the powers in Clause 3 already existing in employment law. Clause 3 is needed to note provision for these powers expressly for the police. The police are not subject to general employment law, which is why it is focused like that. On the basis of what I have said, I ask the noble Baroness, Lady Harris, to withdraw her amendment.

Baroness Harris of Richmond: My Lords, I am very grateful to the Minister who has once again given a very full and frank response. We are not going to get anywhere with these amendments, no matter how hard we try. I can only think that the future will be where we will look to say, eventually, "I told you so". With those remarks, I beg leave to withdraw the amendment.

Amendment 7 withdrawn.

Clause 5 : Police collaboration

Amendment 8

Moved by Baroness Harris of Richmond

8: Clause 5, page 6, leave out lines 4 to 7

Baroness Harris of Richmond: My Lords, now begins a series of amendments to Clause 5. Amendments 8 and 9 would remove the current power of veto, which appears to have been given to chief officers over authority collaboration agreements and ensures that an authority only needs to consult a chief officer about agreements which affect the police force, as opposed to just the police authority. Amendment 8 seeks to remove lines 4 to 7 because the ability of a

[BARONESS HARRIS OF RICHMOND]

police authority to determine what is in its best interest when dealing with collaboration matters appears in the Bill to be handed over to the chief officer. I will develop this argument in following amendments, but I seek to hear the Minister's views on these amendments at this point. I beg to move.

Lord West of Spithead: My Lords, when this issue was debated in Committee, I offered to consider further whether there was an anomaly here. Collaboration in policing depends on negotiation and consultation between the forces and their authorities from the outset. This assumption is well understood and it needs to be embedded in the legislation that supports it, which is why we have the proposed balance of provisions on consultation. All agreements between forces have to be approved by their authorities, but only consultation is required the other way around. All parties must have some involvement in plans for collaboration agreements, but the balance of responsibility rests with the police authorities, which have the ultimate accountability for ensuring that collaboration is supported and have the final say in the judgment of the best way to deliver greater efficiency or effectiveness.

Amendment 9 seeks to ensure that a chief officer is not troubled by being consulted on collaboration plans between police authorities about things which do not directly affect the running of the force. I would suggest that there is always a possibility that such plans might in some cases have an indirect impact on force business. Much of the business of police authorities, for example on performance and planning, is carried out in-force. I would hesitate to suggest that there is a clear distinction, as this amendment implies, between work which has a bearing on the force's activities and work which does not. This close working is as it should be; and to include the chief officer in routine consultation on such matters is the most straightforward approach, would not impose a significant burden and would be appropriate.

Turning to Amendment 8, if employees are under the chief officer's direction and control, a police authority should not be able to agree provisions affecting the functions they carry out without seeking his approval. I understand why this has been likened to the authority seeking permission from the chief officer to provide resources for itself, but this is not a condition applicable to all police authority agreements or all the provisions of any one police authority agreement. The limits of this approval are intended to be confined to the impact of the collaboration plans, in respect of the functions of those employees, on operational matters. This will be set out in detail in the statutory guidance which police authorities are currently helping to draft and to which chief officers must have regard.

We fully intend to ensure, with the help of our stakeholder partners, that the statutory guidance planned for publication alongside these provisions when implemented will make clear the extent of the consultation and approval processes within these provisions. The publication of guidance on collaboration is important to the successful implementation of these provisions. We are working closely on its development with the Association of Police Authorities, the Association of Police Authority Chief Executives, the Association

of Chief Police Officers, Her Majesty's Inspectorate of Constabulary, the National Policing Improvement Agency and practitioners within the police service with real experience of the challenges that collaboration brings.

The National Police Protective Services Board, representing the tripartite organisations, Her Majesty's Inspectorate and the NPIA will sign off the statutory guidance and associated toolkit. An early draft of this material has been received enthusiastically and its publication, which is planned to coincide with the commencement of this Bill in the new year, is keenly anticipated by many in the service who already are in the midst of putting together their plans for closer joint working to meet the need for delivering leaner and more effective policing. In the light of that reassurance I ask the noble Baroness to withdraw her amendment.

Baroness Harris of Richmond: I am grateful to the Minister for his response and welcome what he said about statutory guidance. I look forward to seeing whether it makes any difference.

However, the provision still gives powers to chief officers to veto authority collaboration agreements and confuses ultimate accountability for ensuring that collaboration. The police authority is the governing body of the police force. It is absurd to suggest in legislation that it should have to get permission from the people whom it governs to exercise its functions effectively. Police authorities respect the operational responsibilities of their chief officers, they respect that position in expertise and leadership in policing, and they would think very hard before going against a chief officer's advice. We really must dispense with this power of veto. I shall withdraw the amendment at this stage, but I predict that there will be problems ahead with this part of the Bill.

Amendment 8 withdrawn.

Amendment 9 not moved.

Consideration on Report adjourned until not before 8.31 pm.

Water Management *Question for Short Debate*

8.31 pm

Asked By Lord Dear

To ask Her Majesty's Government what measures they are putting in place regarding the management of water and the conservation of rivers.

Lord Dear: My Lords, in introducing this debate, I thank those who are going to contribute to it and declare my own position in the question of rivers and angling: I am a keen salmon fisherman; I fish also for trout—in both cases, with variable success—and I am a member of the Salmon & Trout Association.

As many of us know, the European Union's water framework directive establishes a new and integrated approach to the conservation of our rivers and watercourses, and it introduces new, broader ecological

objectives designed to protect aquatic ecosystems and, where necessary, to restore those that are damaged. However, in particular, it emphasises that it requires member states to bring all natural rivers up to a good ecological status.

There are a range of issues of concern, but I shall focus today on one aspect of the water framework directive: barriers across rivers that obstruct the movement of fish and invertebrates. These are an important reason why many rivers are not achieving the ecological status that is sought. As I think most of us know, the ability to move up and down rivers is critical for migratory fish such as salmon, sea trout and eels, to name but few. However, other fish species also migrate within the river system, and barriers such as weirs and dams can reduce their chances of spawning successfully.

The Government have proposed some ideas for removing unnecessary barriers and installing fish passes, but there is a complicating factor: the fairly obvious one of the growing demand for hydropower schemes, which could lead to the construction of new barriers and new uses for old, obsolete barriers. If these schemes are not introduced in a managed and sustainable way, they could make it impossible to achieve the good ecological status that most of us would seek and the water framework directive requires.

I shall return to hydropower, but first want to address the general issues surrounding barriers. Under existing legislation, anyone who installs a new barrier in a river or stream that obstructs the passage of salmon or sea trout must install a fish pass. If they are altering an old barrier, they have to install a new pass in that way. However, the provision as the law stands has a number of defects. First, it applies only to salmon and sea trout and does not cover other migratory species, such as eels, shad and lampreys, or freshwater fish that migrate within the river system. Secondly, it does not apply to existing, unaltered barriers.

To remedy these defects, the Government issued a consultation paper in January which proposed to extend measures on fish passage to all fish that need access to different parts of the watercourse to help them complete their life cycle. It also required the installation of fish passes in an existing barrier. Similarly, screens would in principle be required on all abstractions from rivers.

The proposals were welcomed by all fisheries and angling bodies—no surprise there: they would, of course. However, I understand that the Government now intend to delay the necessary regulations until at least May 2011. This is regrettable. It will make it far more difficult to achieve the water framework directive's objectives on the grounds that the Government are, I think, concerned at the economic implications of some of the proposals for small businesses and landowners, and we know that the economic climate is difficult.

While I understand some of the reasons that lay behind that decision to delay, the concerns are in many ways misconceived. Granting additional powers to the Environment Agency need not mean that they would be used immediately—I would in any case expect the agency to use any new powers sensitively. The suggested powers would enable the agency to respond much more effectively to proposals for new hydro schemes, and in ways that did not jeopardise the attainment of the water framework directive's objectives.

I think that we all recognise that hydropower schemes have the potential to cause significant environmental damage. The Environment Agency estimates that 1,200 schemes will be operating by 2020, and those schemes require barriers. Barriers are needed to create the head of water necessary to drive the turbines. Unless properly-working fish passes are provided, barriers will prevent fish migration and the movement of invertebrates. Fish passes require a good flow of water through them to work effectively. Fish such as salmon are attracted to the very strongest flow in the river if they are moving up it to breed. If that strong flow is at some distance from the fish pass, the fish will not find or use the pass, may not find alternative migration routes, and will be lost to the breeding stock completely.

In addition, barriers can cause migratory fish to mass in unnaturally large shoals below them, attracting increased predation—from seals, for example—increased poaching, which is fairly obvious, and the risk of disease outbreaks. This can be a particular problem when the barrier is the first obstacle that salmon and sea trout encounter at the head of the tide in their return migration to their natural river to breed. An illustration of the damage that can be caused is provided by the monitoring data on the effectiveness of the fish pass in the Tees barrage. It was estimated that only 15 per cent of the fish seeking to go over the barrier there actually made it and that none of them went through the fish pass.

While I do not want to labour the point too much, I shall highlight one particular difficulty to emphasise it: what seems to be the conflict of interest within the Environment Agency. The agency is, first, the protector of the environment, with a duty to oversee implementation of the water framework directive and safeguard fish and fisheries—which is all about the environment. On the other hand, it also has a duty placed on it to further the development of renewable energy and help meet the Government's ambitious targets for it. It is difficult to see how this dual role can easily be managed by one agency and within it.

Against this background, four steps might be taken. First, I hope that the Minister can give an assurance that the agency and the Government can agree that the first duty of the Environment Agency in these circumstances is to protect the aquatic environment and its associated ecosystem. Secondly, the agency has to be empowered to do the job properly. There should be no delay at all in introducing the additional powers that are now at the discretion of Government, particularly where hydropower schemes are concerned, and I contend that we should not have to wait until 2011 for that.

Thirdly, it is essential that the impact of barriers on fish migration is assessed in an integrated and coherent way, by which I mean that where hydro schemes are concerned, they must not be assessed in isolation. While one barrier on the river might be passable to migratory fish, it is fairly obvious to those of us who know anything about fish and rivers that a succession of barriers could constitute a cumulative obstacle that the fish cannot overcome, even if each barrier on its own is in theory passable. Moreover, existing barriers that are not involved in hydro schemes need to be looked at in the same way and at the same time. Lastly,

[LORD DEAR]

I contend, fairly obviously, that the Government should encourage research into new and innovative ways of generating renewable energy that might not require barriers on large river flows and so have less impact on migrating fish.

I conclude by saying that if all this is done, it would be possible to succeed in what is admittedly a difficult balancing act, that of on the one hand reconciling the need to protect the aquatic environment and meet the objectives of the water framework directive, and on the other hand making use of the potential of our rivers to generate renewable energy.

7.41 pm

Lord Smith of Finsbury: My Lords, I am grateful to the noble Lord, Lord Dear, for selecting this subject for debate and for so admirably setting out the issues that confront us. I have a particular interest in engaging actively with this discussion given my role as chairman of the Environment Agency. As the noble Lord clearly spelt out, the challenges we now face with the implementation of the water framework directive are very considerable.

Over the past 10 years or so, we have made substantial progress in cleaning up the rivers and watercourses of this country. Under the old rules of what constituted good ecological status for a watercourse, we were at something like 70 per cent good condition across the rivers of England and Wales. The water framework directive, however, is much more demanding than the old rules. Instead of the five parameters by which we used to have to judge watercourses, we now have 34 parameters that we need to use to judge them, and those include both biological and chemical characteristics. As a result, at a stroke, the percentage of rivers and watercourses in England and Wales qualifying as having good ecological status has fallen from 70 per cent to 26 per cent. That is not because the water has changed in any way, but because the rules have changed. However, the rules are there, the water framework directive is in place, and it is our duty in the Environment Agency to implement those rules and to seek over the coming years to improve as best we possibly can with the resources available to us the quality of the water in our rivers. The task is not going to be an easy one, but we are already setting about it with vigour.

The water framework directive, as well as requiring a range of new tests to be carried out, takes a sensible approach in seeking to look at the whole of a river basin as one, so that we need to look not just at the river itself but also at the estuary, lakes and so forth. Before, under the old rules, we did not have to do so. To achieve an improvement in ecological status and rise above the figure of 26 per cent, which we have to do, we are going to have to look beyond the easy pollution sources—the point source pollution, for example, from a sewage treatment works. We have been doing that intensively over the past 10 to 15 years, and it has been the primary route to improvement over the period. But now we need to look much more actively at issues like diffuse pollution, pollution that comes into watercourses from agricultural land used for both grazing and cultivation. That is a much more difficult

area for us to tackle, but with the co-operation of the farming community and with new catchment-sensitive farming practices which are now increasingly being adopted, I am sure that we are going to have some success.

However, I should like to touch on two further issues. I will come to the first of those in a moment because it relates very specifically to the issue of small-scale hydro power raised by the noble Lord. The second issue, which perversely I shall deal with first, is what is likely to happen over the next 20 to 30 years or so to the rivers of England and Wales as a result of climate change. We know that climate change is very much with us. Whatever happens in the next few weeks at Copenhagen, it is likely that we face a global rise in average temperatures of at least 2 degrees, and it may be a lot more.

We have done some careful work in the Environment Agency looking at what climate change means in terms of flows in the rivers of England and Wales in 20 or 30 years' time. The automatic assumption among most people is that we have plenty of rain in the UK and rivers that flow freely, so it is unlikely that there will be much of a problem. The response to that is yes and no. We will face greater extremes of weather as a result of climate change. The summers will be much drier on the whole, while the winters will be rather wetter. We will have more floods and more droughts. The weather will become more erratic and extreme.

The consequences for the flow of water in our rivers, especially in the drier parts of the south and east of England are, during the summer months, likely to be severe. Our expectation is that in 30 years' time, the level of flow in the summer in rivers in the south and east of England will be down by between 50 per cent and 80 per cent on what it is during the summer months now. The consequences of that will be considerable, not just for the flow of water and for the look and feel of the rivers for people who like to enjoy them, but also for fish populations, for levels of water abstraction, for the water companies and their ability to supply us all with drinking water and for the discharge into rivers—one of the important things is the dilution effect that a good flow can have on levels of pollution where it is discharged. It means that we need to look very carefully at the quality of the water, the levels of flow, and the levels of abstraction and discharge over the period. It also emphasises how important the task of tackling climate change actually is, because it is not just about a rise in sea level, erratic weather or more flooding; it is also about water resources and river flows.

This brings me to the dilemma that the noble Lord so accurately described. In considering the balance in small-scale proposals for hydropower in rivers, we need to bear in mind two potentially conflicting environmental objectives: on the one hand, the quality of water, the level of flow and the ability of fish to swim up the river in the way that they would naturally wish to do; and, on the other hand, the need to encourage as much as we can the development of renewable energy resources for this country. This is a classic issue where there is a dilemma of environmental objectives. We in the Environment Agency will seek to

achieve a balance wherever we can. Where we cannot, where it is impossible to have sustainable small-scale hydropower, we will say that it is not sustainable and that we should not do it. Where it is possible to achieve both objectives, we want very much to achieve them.

Let me give the recent example of a small-scale installation on the River Monnow in Osbaston, Monmouthshire. The installation, which was built as an investment by a private house owner; has two Archimedes screws, which raise the water in a fish-friendly manner, in order to power the turbine; it also has a separate fish pass to allow the migration of fish. The installation harnesses around 670,000 kilowatt hours of electricity per year, enough to power 152 homes. The owner of the scheme diverts enough energy to power his own home and sells power on to the National Grid. That scheme has achieved free movement for the fish and renewable energy. In a small way, this has begun the process of tackling climate change. It is the kind of solution that provides a synergy between the two objectives. There will be occasions, of course, where proposals do not provide that kind of synergy, but where we can, we want to try to achieve a good, sensible balance between the two objectives.

Yes, our objective will always be to improve the quality of the water in our rivers and watercourses—that is our duty as the Environment Agency—and we also want, as far as we can, to embed the fight against climate change in everything we do.

7.53 pm

Baroness Scott of Needham Market: My Lords, I thank the noble Lord, Lord Dear, for tabling the debate today. I should say at the outset that I know little about the water framework directive but the debate gives me the opportunity to say a little about water conservation in my home region of East Anglia. Like many other regions across the country, we face the challenges of the impact of housing growth, pollution, climate change and rising customer expectation and demand.

However, it is of particular importance to East Anglia that while we are one of the fastest growing regions in the country in terms of housing, we also have the driest climate. Even in this highly unexceptional summer, we had very little rain indeed. We are therefore highly vulnerable to drought and yet across East Anglia we have many water-dependent conservation sites, some of them designated at European, or even world, level. Some are large and very well known, such as the Norfolk Broads, the RSPB site at Minsmere and Wicken Fen in Cambridgeshire, which is the last remaining piece of original fen. However, we have many other small sites which are important in their own way. Not far from where I live, the Redgrave and Lopham Fen is the home of the great raft spider and is one of the few places in the world where this spider is to be found. It needs to be protected not only for that reason but because the spider is an indicator of the health of the water; it needs unpolluted, alkali water to thrive.

The Broads Authority in Norfolk has shown the value of an integrated approach and the work done by the RSPB and the National Trust has been absolutely

invaluable. Across East Anglia there are small local organisations, such as the East Anglian Waterways Association, which work tirelessly to clear riverbanks, clean ponds, inspect canals and so on. In the north of the county, the Otter Trust in Bungay was so successful in reintroducing the otter that it has now disbanded, although I accept that the health of otters may not be too beloved of the noble Lord, Lord Dear, and fellow anglers. I am patron of the Pickerel Project in Stowmarket, in which volunteers look after the River Gipping on a regular basis. It is with the help of such organisations that East Anglians are trying to conserve their rivers; without them we would be in a far worse situation. However, it will require a lot more than local action by volunteers, however welcome that might be.

At our recent party conference in Bournemouth, the Liberal Democrats introduced a natural heritage policy paper which outlines some thinking in this area. How much thought are the Government giving to introducing to water conservation the kind of measures that they have introduced for energy conservation: for example, providing building control guidance in favour of rainwater harvesting; supporting energy efficiency in existing homes by the introduction of smart metering in water-stressed areas; and providing grants or preferential VAT rates for rainwater harvesting systems, water butts and dual flush toilets.

It seems apparent that the regulatory regime under which Ofwat operates is still a hangover from a bygone era; it appears to pay no serious attention to environmental or social concerns. It is time to alter Ofwat's remit to put water resource efficiency at the heart of water companies' plans, to include tougher leakage targets and provision to protect water quality through land management.

As the noble Lord, Lord Smith, pointed out, the other side of the drought equation in East Anglia is that we suffer badly from flooding. Annual flood damage now costs an estimated £2.3 billion a year across the country. This total is rising as climate change increases the variability of weather patterns. Both the Stern and Foresight reports state that major urban flooding is now inevitable and that costs will rise to £21 billion per annum later this century. Floods caused by flash rainfalls and overflowing rivers in England in June and July 2007 caused a number of deaths as well as £3 billion-worth of damage to homes, businesses and agriculture. This shows the extent of the impact of flooding.

Current funding is inadequate. The ABI, the Foresight report and the Environment Agency have all called for spending to be increased. What is the latest thinking on funding to deal with flooding? Equally, how much research is being done to improve our knowledge of flooding and the risks that it brings? How will we protect the vital utilities, such as water and electricity, and ensure that infrastructure is not irrevocably damaged when flooding takes place? What more can be done to regulate future developments, particularly building on flood plains?

There have been approximately 1,500 serious river pollution offences in the past five years—some of which have killed hundreds of thousands of fish and destroyed wildlife habitats and ecosystems—and yet

[BARONESS SCOTT OF NEEDHAM MARKET]

the average fine for each breach is just over £4,400. This is not enough to deter businesses from polluting. Many of them, I fear, regard it as a business cost; a risk that is worth taking. While I commend the Environment Agency for the work that it has done so far in cleaning up the rivers, I hope that it will consider whether it is doing enough to deter polluters.

In conclusion, I again thank the noble Lord, Lord Dear. British rivers are an important part of our natural heritage and environment and play a key role in our lives. It is time that we began to take them seriously.

8 pm

Lord Greaves: My Lords, I, too, congratulate the noble Lord, Lord Dear, on introducing this debate. Although it has ranged from the wide to the specific, it has nevertheless been very useful. It carries with it the advanced ripples of the coming debates that we hope we are going to have on the major Bill on floods and water management, which we hope that the Government will bring forward in the new Session.

My noble friend Lady Scott of Needham Market talked much more generally than the noble Lord and others on this topic, and did so usefully. She reminded me that in the part of the country where I live, our rainfall is somewhere around twice that experienced in the heart of the Fens in the northern part of East Anglia. If the forecasts that the noble Lord, Lord Smith, referred to are accurate, that difference is expected to increase, so part of the country will get even more rainfall than it does at the moment while other parts will be more subject to drought and extremes of rainfall, perhaps between summer and winter or even between different periods of weather. This is important because it introduces the element of diversity, to which I shall return in a while when we are talking about the necessity of finding a balance between the interests of small-scale hydropower and the preservation and enhancement of the fish stocks in our rivers.

The noble Lord, Lord Dear, referred to weirs and dams. This is a historic legacy on many rivers. I come from a part of the country where, if you walk and up and down any of the rivers, you can frequently find at least the remains or evidence of weirs that were used to power the local textile mills and, before that, small-scale mills for milling grain, bobbins and all sorts of other things. They are still there. The historic legacy of weirs and barriers on our rivers is one aspect of this. The other is the question of new schemes and perhaps upgrading and using existing weirs for new schemes, if they are not exactly new ones.

There are two issues here. The noble Lord suggested that there was a conflict within the Environment Agency, but it is not just within the agency. We are all in favour of the development of sustainable energy supplies, whether large-scale, medium-scale or small-scale, as a matter of principle, but we are also in favour of preventing those schemes from having undesirable ecological consequences. That is the dilemma. It is not just a question of small-scale microhydroelectric schemes; it is something that crops up whenever we talk about renewable energy. Even if you can find a perfect site

for developing renewable energy, there is then the problem of the transmission lines. There is a major debate in the Scottish highlands at the moment on that. To what extent are we prepared for wind farms—“wind factories”, some people call them—severely to affect the environment on the great open moors and fells of this country, as well as at the coastal sites, which might be ideal for this? Even if we are talking about marine wind and the development of electricity from marine currents and tidal barrages, whenever we look at this, there are environmental pluses from the development of green energy and environmental minuses from the impact that these schemes have on the environment, ecology and the net carbon balance of carrying them out. Whenever we do this, there are these questions to be answered, and this occasion is no different.

When we come down to the issue of small-scale hydropower, which the noble Lord, Lord Dear, raised, everyone has been saying that a difficult balance has to be achieved. The noble Lord said that it is a difficult balancing act. Those were his words. Yet there are two sides to this and two arguments, and the position that each of the two sides would end up with is rather different. Where people think that the desirable balance would occur is different if you are a passionate believer in microhydropower or, on the other hand, if your main concern is the preservation of fish stocks. It is not possible, in my view or the view of my party, to take an extreme view on this; there has to be a balance. There will have to be compromises.

I looked on the Environment Agency website and I shall quote what it says:

“Where schemes would not be compliant with environmental or other legislation by, for example, preventing the passage of migratory fish or increasing flood risk, we will not support their development”.

The question is not prevention, though; it is to what extent the scheme hampers or affects those aspects and to what extent it is acceptable to cause problems with the migration of fish, even if you do not completely prevent it, in order to achieve a scheme in a particular place. The noble Lord, Lord Smith, said that it is possible to achieve perfect synergy in some cases. That may be the case, but in most cases I rather think that a perfect synergy will not be possible and compromises will have to be made.

I come back to diversity. It may well be that the answer that people should come up with on one particular river, or in one particular river basin, is different from the one they will come up with regarding another. It may be that in one case the balance has to go one way while in another it is sensible for the balance to go the other way. This is not easy; it is messy; but I cannot see that it is possible to come up with a level of balance that will be the same in every place.

The dilemma of environmental objectives is with us all the time. Where it is possible to achieve both objectives, in the words of the noble Lord, Lord Smith, that is wonderful, but in most cases it will not be possible to achieve both objectives to the full extent that people would like. Compromises are going to have to be reached.

My other point is about cost. It is often possible to achieve a better and more ideal scheme if someone somewhere is prepared to put the money in. But who will it be? Should it always be the owners of weirs, of obstructions in rivers or of microgeneration schemes who have to bear the cost? Is that always reasonable, particularly when we are talking about the legacy of existing barriers and weirs? If the true cost has to be borne by those people, the schemes may become unreasonably expensive and not go ahead because they are not feasible. If, on the other hand, there is a public policy requirement to achieve the benefits to the fish stocks in the rivers or to fish migration, it may be that some funding from public sources might be required, and that might be sensible. Again, these are balances that have to be achieved. If the fish lobby, if I may put it that way, takes an extreme position, it is not clear that many of these microgeneration schemes will go ahead.

The skill that the Environment Agency will need, with the people it is working with in local authorities and so on, is to achieve the balances and compromises that are appropriate and that apply in each river. That will not be easy, but it is how it will have to be.

8.09 pm

Lord Taylor of Holbeach: My Lords, I thank the noble Lord, Lord Dear, for tabling this Question, which is a timely opportunity to challenge the Government on their plans in this direction. I declare an interest as a farmer and grower. We are also subscribers to a project designed to better manage the fresh water available in the Wash area and Holbeach Marsh for farm irrigation. It may help the noble Baroness, Lady Scott of Needham Market, to tell her that I am born and bred a fen-man.

Our attempt to conserve winter water to use in the summer is but one indication of how water is beginning, not before time, to have value. Water is an increasingly valuable resource. Managing it and finding a balance between sometimes conflicting uses and making a judgment as to priorities is one of the great issues facing government.

If my speech appears to be broad, I hope that it is not too slow and meandering. I am reminded of my O-level class on the structure of rivers. I am not suggesting that some of the speeches have been torrential, but they have been narrow and confined. Mine takes the lowland phase and tries to treat this subject on a broad basis.

What plans do the Government have for the flood and water management Bill? It has taken a long time. From the floods of 2007 and indeed the year before, the preliminary Pitt report, the final Pitt report, the draft Bill and the EFRA Committee's evaluation of that Bill, time has marched on. Scrutiny by the EFRA Committee challenged some of the assumptions on which the Government had based the Bill. Where do the Government intend to go from here? What is the Government's response to the EFRA Committee? More to the point, what happens to the Bill? There are many people, not least those flooded in these catastrophic events—indeed those of last weekend—who will want to know the answer.

Whatever happens, the key will surely lie in improvements led by engineering and science. I am, I should declare, a vice-president of the Association of Drainage Authorities and, by coincidence, had a meeting with the chief executive, Dr Jean Venables, earlier today. For those noble Lords not aware, she is handing over the presidency of the Institution of Civil Engineers this evening, and the House should pay tribute to her distinction as the first woman to hold that office in the history of that institution. It would come as no surprise that she rightly wishes to see engineers at the heart of the Government's strategy, and I agree with her.

The question posed by the noble Lord, Lord Dear, hangs on the effectiveness of catchment area management. The river basin management plans will need to incorporate the characteristic of the river basin district—its geology, its geography, its topography and the nature of its economy. Many factors affect water levels; not just rainfall but the conflicting uses of rivers need careful management and balance. All speakers, particularly the noble Lord, Lord Greaves, wanted noble Lords to be mindful of that factor. As the noble Lord, Lord Dear, explained, and the noble Lord, Lord Smith, also mentioned, even small rivers are being considered for microhydropower. Some impressive examples already exist of quite small courses generating appreciable electricity. The noble Lord, Lord Smith, referred to one of these. They could make a real contribution to the renewable energy budget, but they need to take account of the impact of such schemes on the biology and biodiversity of the river system and, in particular, the passage of migrating fish.

That brings us in turn to the beat of the noble Lord, Lord Dear, and the importance of proper consideration of the recreational use of rivers. It also brings us to the question of water quality. With only 26 per cent of rivers classified as good, under the new water framework directive, the threat of pollution is ever present. What has become of water protection zones? How many have been identified so far and how many orders has the Secretary of State signed? How many appeals have been completed and how many remain in the pipeline? What progress has been made on the water protection zone charter, as suggested by the National Farmers' Union, the Country Land and Business Association and the Agricultural Industries Confederation?

A further problem is overabstraction. Winter storage is key to resolving this problem. We need to facilitate the construction of on-farm reservoirs. The technical obstacles are considerable. Is there room for the Environment Agency to assist with free advice and assist in the complex data submissions? A few successful exemplars could provide a real impetus in this direction.

I should say how useful has been the contribution of the noble Lord, Lord Smith of Finsbury, to this debate. Indeed, we acknowledge his wider role as chairman of the Environment Agency, a job to which he has taken as if a duck to water—if that is not stretching the theme of this debate to too a dreadful an analogy. The noble Lord referred to climate change and indicated that unsustainable levels of abstraction are a real problem. We know from the Written Answer in the House of Commons *Hansard*, at col. 526W on 28 January, that 2,970 water resources licences have

[LORD TAYLOR OF HOLBEACH]

been investigated, while 274 may be causing damage to Natura 2000 sites. Even outside SSSIs and other habitat sites, some rivers are dying. The Government say that they are keen on voluntary agreements. What differences of opinion and strategy exist which stop these progressing? Indeed, given that there are consultations ongoing for all the 11 river basin districts covering England and Wales, each consisting of documents of over 2,000 pages, how is the analysis coming on? The consultation closed in June. Will reports be ready for publication on 22 December as planned? I am sure that the Minister will be looking for some Christmas reading.

Meanwhile, there is yet more reading in prospect. What is the state of play on the report commissioned by the Government from Anna Walker, which is likely to address matter such as metering and tariffs? Both are key in the effective management of water as a consumer resource. It will be interesting to hear from the Minister his views on the water companies' role here.

This has been a useful debate and certainly opportune in its timing. I congratulate the noble Lord, Lord, Lord Dear, on securing it. He has cast his fly with skill, and one hopes that he will be content with his catch. He can judge as will we all, when we hear what the Minister has to say.

8.18 pm

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): My Lords, I begin by congratulating the noble Lord, Lord Dear, on securing this debate and on introducing our deliberations with a very considered contribution. He had a precise focus, to which I hope to give some replies, but I am also obliged to respond to those broader issues of the debate that inevitably arose in the context of water management and river conservation, which is a major challenge for us all. I am obviously grateful to my noble friend Lord Smith for putting that into the context not only of his own particular responsibilities at the Environment Agency but of climate change and the challenges that we all face there.

There is no doubt that water is an important resource that needs management. The Government demonstrated their commitment to its long-term management in our water strategy for England, *Future Water*, which we published in February 2008. *Future Water* sets out my department's long-term vision for water and the framework for water management. The strategy looks at the whole water cycle, from precipitation and drainage through to treatment and discharge, and considers matters such as the sustainable delivery of secure water supplies. The noble Baroness, Lady Scott, introduced that point into her speech and was supported, as I would expect, by her noble friend Lord Greaves, who also ranged widely over the issues involved in how we improve and protect the water environment. That is an important and, I think, crucial resource, which we all recognise may be the determinant of very substantial decisions worldwide, given the difficulties over water supplies in the world.

Already, at times, very real difficulties on these matters are being shown. We only have to look at a country such as Australia, wrestling with its climate problems in recent years, to appreciate just what a challenge climate change represents to these points. I think that the House will appreciate that there are major factors to consider in contributing to the balance of the environmental and socio-economic requirements for water. Water is commonly seen as an unlimited resource, but clearly it is not. Climate change presents that major problem, as my noble friend identified. As he said, forecasts predict significant changes to both the spatial and temporal distribution of rainfall in the United Kingdom, with real implications for us all.

I want to emphasise that the Government are responding to all the initiatives regarding the use of water to which we are obliged to respond. We all recognise the significance of the water directive. The noble Baroness, Lady Scott, also suggested that we might solve some of these problems by being more careful about water and by using less of it. I agree with her; certainly, a part of our strategy has to be encouraging the nation to recognise how valuable water is. *Future Water* outlined an ambition to reduce the average per capita water use to 130 litres per person per day by 2030. That is a pretty ambitious target, because it is 20 litres fewer than are used at present. I hope that noble Lords will be aware that on 24 September we launched a water efficiency campaign, under the "Act on CO₂" banner, which indicates the Government's determination to operate successfully there.

I will come on to the hydro issue and the whole question of hydropower in a moment and I want to respond to the particular questions from the noble Lord, Lord Dear, on fishing. Before I do so, let me say that hydropower has its role to play in the more general sense with regard to energy generation. We all recognise that climate change imposes significant changes to our electricity generation. That is why we all appreciate the significant change in government policy regarding energy resource. However, hydropower's present contribution is very limited and we should not exaggerate how important it is. It is certainly green, and successful in those terms, but in comparison to those regions with significant hydropower resources that are easy to generate—Scandinavia is one obvious illustration—Britain's role is comparatively minor in our ability to operate hydropower.

I wanted to respond to the point made by the noble Lord, Lord Greaves, about the extent to which the Government were concerned about alternative energy issues. Indeed, we are. The Government are responsible for contributing half the cost of the billion pound programme to look at alternative energy strategies. Eleven major companies have each put in £50 million and the Government have put in the other £550 million—half the cost—to fund a programme to look at alternative strategies. However, these will take time to bear fruit. None of us is in a position to be absolutely certain which strategies will develop successfully. That is why it is only right that we covet and respect all forms of energy generation, even the relatively minor one of hydropower, as that form of generation would counteract climate change.

As the noble Lord, Lord Dear, so ably identified, tricky decisions have to be taken when hydropower is used, as one needs to balance the benefits of generating electricity from this renewable resource against the necessity of protecting migrating fish. My noble friend Lord Smith referred to the Environment Agency's interest in this issue. Indeed, it plays an important role in the development of hydropower, but it has to balance a range of duties, which my noble friend identified. It has to wrestle with difficult decisions with regard to water use. As I said, we must balance the need for electricity generation against the necessity to protect fish. Some schemes may have a relatively minor impact on fish, but others might have a considerable impact, as the noble Lord, Lord Dear, said.

The noble Lord added that there should be no delay in introducing additional powers with regard to the passage of fish. My honourable friend the Minister for Fisheries will lay an order this year on the provision of eel passes and screens. Eels are in a particularly parlous state and a number of obstructions prevent or reduce their upstream migration, thus constraining the colonisation of suitable habitats. It should be emphasised that not all obstructions need to be modified and I have no doubt that the Environment Agency will prioritise the most critical barriers to migration. Measures for additional powers for the provision of fish passes and screens for other species will be laid in 2011.

We are fully cognisant of the point that the noble Lord expressed so succinctly and accurately. I assure him that we intend to act. He also emphasised that passes will not work unless they are in the right place as regards flow. We understand that point. The Environment Agency will need to work closely with owners and occupiers of obstructions to ensure that fish passes are effective. There is absolutely no point in making provision in this regard if fish are not able to negotiate the passes to reach the areas that they need to get to. I accept the emphasis laid by the noble Lord, Lord Dear, on that dimension.

The Environment Agency and government must ensure that we safeguard the interests of fishing and protect species, or particular variants of species, that might otherwise be threatened. I reassure the noble Lord in that regard. Our hydropower good practice guidance sets out requirements for fish screens, which are risk-based according to the potential for damage to fish from different types of hydropower turbines. A great deal of thought is given to this issue. I take sustenance from the contribution of my noble friend Lord Smith, who indicated his interest in the Environment Agency.

As ever, I find myself desperately constrained by the time limit in replying fully to the issues raised. The noble Lords, Lord Taylor and Lord Greaves, were bound to ask me to produce my version of the Queen's Speech some three weeks or so before it is due. That was a good try, but I am a little too long in the tooth to fall for that one. They emphasised the importance of taking measures to conserve water and prevent flooding. They know only too well how enthusiastic my department is to meet the requirements of the Pitt report, which clearly identified necessary action, and how much progress we wish to see being made. However, they will

have to contain their impatience for a mere 14 or 15 days and all will be revealed. No doubt we will then discuss these matters in a different framework.

On the more general issues that the noble Baroness, Lady Scott, raised about building on flood plains, of course we are concerned about planning issues that relate to the problems that too much water can provide in certain areas. She will know that we have guidance on how to undertake flood-risk planning. We expect our partners—particularly our fellow department, CLG—to manage these issues effectively.

I have responded all too inadequately to the wide range of issues that have been raised. I emphasise that issues around climate change put the whole question of water into a new, more dramatic and important dimension, but the noble Lord, Lord Dear, is only too right to remind us that particular usages of water are highly valued by members of our community. Their interests also need to be taken into account and balanced.

Policing and Crime Bill

Report (1st Day) (Continued)

8.31 pm

Amendment 10

Moved by **Baroness Harris of Richmond**

10: Clause 5, page 6, line 35, at end insert—

“(1) A collaboration agreement may be entered into jointly by a police authority and the police force for its area with another party or parties, but any such joint agreement shall—

- (a) set out the matters relating to the discharge of functions by members of the police force under section 23 in a form which distinguishes them from the matters relating to the discharge of police authorities functions under section 23A;
- (b) contain the information required under section 23D.

(1A) Any police force collaboration agreement which imposes any legal liability on the police authority must take the form of a joint agreement referred to in subsection (1).”

Baroness Harris of Richmond: My Lords, I supported the original version of the amendment, but I am moving this version after listening to the Minister in Committee because I remain concerned. I agree entirely with him about bringing greater clarity to which sorts of agreement are appropriate for forces to enter into and which are appropriate for authorities to make. Although a number of rough edges remain to be ironed out in this clause, I support its overall aim and acknowledge that this is a very important area to tackle, to strengthen resilience at strategic level.

The original amendment was not in any way intended to merge or confuse the functions that could respectively be carried out by forces and authorities under collaboration agreements. The amendment was simply to make it clear that forces and authorities could enter into agreements together. However, the revised amendment tries to clarify the points made by the Minister, whereby the functions can be kept separate.

Joint agreements are in practice how most collaborations actually work. For instance, the main focus of an agreement might be to work with another

force to improve the way that human trafficking is handled, but the agreement will also need to include collaboration on a number of support services, such as the provision of specialist IT. However, I am concerned that if an enabling provision is not put into the Bill specifying that it is possible for an authority and force to enter jointly into agreement with another authority and force, then sooner or later someone will challenge this common practice on the grounds that it is ultra vires because it is not set out in legislation.

It might be argued that if the intention had been to provide for joint agreements, the legislation would not have been so specific about separating out force agreements and authority agreements. I am sure that a court would have some regard at a judicial review to the debate that we are having about this issue. However, that will not have the same force as something that is in the Bill. We need to put this matter beyond doubt and be absolutely clear that it is permissible to enter jointly into force and authority collaboration agreements while preserving the specific roles of forces and authorities in those agreements.

The second part of the amendment tries to clarify what should happen when a force collaboration agreement imposes a legal liability on an authority. The Minister implied in Committee that this had already been dealt with because an authority would have to approve a force agreement in any event. I am uneasy about this. Approving a collaboration agreement in advance is very different from being a party to it and involved in operating it. I am concerned here about various statutory responsibilities of police authorities, particularly those that accrue to it as an employer, which cannot be wholly delegated to the chief officer. This includes things like health and safety. The intention is not to suggest that police authorities should become involved in delivering operational policing but that they should be capable of meeting and managing their legal liabilities in a way that might be difficult if their role is merely to approve and then monitor agreements. This might not give them the necessary traction to manage their risks and responsibilities effectively.

This goes back to the earlier point about entering joint force and authority agreements that might cover some of these concerns. There are potential situations where no parallel support agreement is required from the authority, but the authority is nevertheless exposed to liabilities. It worries me that an authority might have limited routes to protect its position in this situation. I have removed the reference to exposure to financial liability because I accept that authorities should have other means of meeting their financial stewardship duties through financial delegation arrangements.

I reiterate that the amendment seeks to improve, and remove barriers to, collaboration. I beg to move.

Baroness Neville-Jones: My Lords, I will be brief. Having read *Hansard*, it seems to me that the noble Baroness and the Minister are trying to achieve the same thing. I accept the Minister's previous assurance that police authorities will have to approve, and be involved in, all police collaboration agreements, including any liability imposed on them and any establishment of accountability arrangements.

In Committee, the Minister said that the detailed clarity that the noble Baroness seeks will be found in supporting guidance and in the example agreements that the Government will publish. We look forward to receiving these—I hope that they will be made available.

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My Lords, the provisions on collaboration agreements deal with the different roles that police forces and police authorities have within the collaboration. The most straightforward way for the legislation to make these details clear is to address them separately. However, that in no way undermines the need for both authorities and forces to assume their distinct responsibilities in the arrangements for a police force collaboration. The provisions ensure that they have a duty to assume those responsibilities.

When the amendment, in a slightly different form, was tabled in Committee, I reassured noble Lords—as the noble Baroness, Lady Neville-Jones, mentioned—that there was no discernible difference between the present legislation and the proposed new arrangements in so far as they both supported police forces and police authorities signing up to their combined plans for collaboration. The only difference is that the new provisions make it clearer that they deal with two different sorts of agreement about their respective responsibilities, but that these may be interlinked and indeed form two parts of the same set of paperwork. I also reassured noble Lords that such an approach would be the default arrangement in the template agreements set out in the supporting guidance. I take the point of the noble Baroness, Lady Neville-Jones, that we must make sure that this is given out soon to the House. That is indeed the basis on which the templates are being drafted.

I recognise the concern behind the amendment. As has been stated, we are both after the same thing. The linkage between force and authority agreements is important and may not appear explicit under the provisions as drafted. However, there is a clear dependency between the two, and all police forces' collaboration agreements will automatically present an opportunity to the police authorities to develop associated agreements on governance arrangements and support services by virtue of the fact that the authorities must consider them for approval. There is no legal requirement for a police authority agreement to be the same as the agreement between police forces on which it is dependent. We will be happy to provide detailed advice to police authorities and forces on this point in the statutory guidance—I have already touched on that.

I give my further reassurance that the approach set out in the provisions provides a robust and legitimate platform for agreements that combine the arrangements for operational policing collaboration with the governance and resourcing arrangements needed to underpin them. On this basis, I request that the noble Baroness withdraw her amendment.

Baroness Harris of Richmond: My Lords, I am very grateful to the Minister. I think that we are probably seeking the same ends but through slightly different means. The detailed clarity to be found in guidance is

to be welcomed and I look forward to it. I do not think that we can go any further with the amendment at this stage but I am grateful that our discussion will be recorded in *Hansard* so that authorities will be able to see what we have been debating. I beg leave to withdraw the amendment.

Amendment 10 withdrawn.

Amendment 11

Moved by Baroness Harris of Richmond

11: Clause 5, page 7, line 6, after “force” insert “or more than one police authority acting under joint arrangements set out in subsection (3)”

Baroness Harris of Richmond: My Lords, I spoke to a number of related amendments in Committee and supported earlier versions of both Amendments 11 and 15 in this group. However, I shall speak first to my Amendment 11.

The Minister’s response at that time focused more on other amendments in the group and did not really deal with this one, beyond acknowledging that many police authorities already carry out their collaborative functions through joint committees. However, I am afraid that that rather missed the key point about accountability, which this amendment seeks to address. It is designed to clarify not so much authority functions as chief officer accountability for collaboration. I have revived it because I am still concerned that it is essential to get governance absolutely clear in what is a very complex area. Therefore, I have removed the reference to joint committees, because I think that that rather confused the debate, and instead have focused on joint arrangements in order to get to the nub of this issue.

There have been occasions in the past when collaboration has been impeded because the chief officer has refused to answer to a joint committee of police authorities for the conduct of collaborative functions on the grounds that in law his only accountability is to his home police authority. The amendment would ensure that that excuse could not be used in future and that a chief officer could legally be held to account for collaborative functions jointly by the authorities involved in that collaboration. I am not convinced that the existing wording in the Bill is specific enough about this because at present new Section 23D(1) refers only to police accountability to a home authority. Subsection (3) does mention joint arrangements but it refers to authority functions and not specifically to the answerability of chief officers. I accept that one function of an authority is to hold to account but there are many others, and the meaning of this new section is, to my mind, obscure and still open to interpretation by a reluctant chief officer. I hope that the amendment puts that beyond doubt, and it is essential if we are to be serious about removing the barriers to collaboration.

I turn to Amendment 15. When we last debated this section of the Bill in Committee, the Minister indicated that there might be some merit in looking again at the delegation of police authority functions if it helped to assist aspects of collaboration and procurement. If he has done that, I have not heard so specifically from

him, but I understand that the Home Office retains concerns that disapplying the bar on delegation might open the floodgates and that that might lead to authorities delegating their policing functions in their area inappropriately. However, the inability to delegate any functions is undeniably a bar to facilitating collaboration and adds needless bureaucracy to the process.

I was under the impression that this section of the Bill was supposed to make collaboration clearer and easier. I am sure that it is not the intention of police authorities to divest themselves as quickly as possible of all their responsibilities. That is not what local authorities did when they were given the same power and there is no reason to think that police authorities would act differently. This would be much more consistent with the principles of greater devolution which the Government supported in the Green Paper on policing. Indeed, the only reason that police authorities were prohibited from delegating functions when this legislation was passed nearly 40 years ago was that they were then still effectively committees of their local authority. I remember that extremely well. In those circumstances it was inappropriate for police authorities to have an independent legal status outside their councils or to arrange for another police authority to carry out their functions.

8.45 pm

I understand that over the summer there has been some confusion about the ability of police authorities to collaborate in another context. I believe that the standards board issued guidance about collaborating to form joint standards committees locally. That guidance was substantially aimed at local authorities, but police authorities are covered by the same legislation on standards as local authorities are. However, I believe that the standards board initially concluded in its guidance that the Local Government Act 1972 prevented police authorities from collaborating together on their standards functions. It really is a bit of a mess. I understand that this issue has now been resolved and that the initial advice has been revised to confirm that police authorities can collaborate regarding standards. That must be a welcome move but it illustrates starkly the confusion about the matter. Surely, in a Bill which is meant to clarify and facilitate collaboration, it is essential to ensure that that lack of clarity is quickly resolved.

I shall now try to help the Minister. Rather than simply disapplying the relevant part of the Local Government Act 1972, I seek to amend it to try to cover his concerns. First, it prevents police authorities from delegating all of their functions to another police authority, although the other side of that coin is that it will permit them to delegate some functions. Secondly—and here I give the Minister a big helping hand—I have included a provision that would enable the Secretary of State to make regulations about functions that cannot be delegated, although naturally that is subject to consultation with the Association of Police Authorities. Therefore, I hope the Government agree that that is an acceptable compromise which helps to remove barriers to collaboration and unnecessary bureaucracy while overcoming the concerns expressed by the Minister in Committee. I beg to move.

Baroness Neville-Jones: My Lords, we have some sympathy with Amendment 11, which specifies that when a chief officer is acting under the terms of the collaboration agreement which cuts across a number of force areas, he can be held to account by police authorities jointly. It is important that a mechanism is set up to see that the joint arrangements are working.

In Committee, the Minister said that new Section 23D(3),

“encourages consideration of joint committees for this purpose”.—
[*Official Report*, 22/6/09; col. 1413.]

He seems to suggest that there might be alternative mechanisms for accountability and collaboration arrangements. It would be helpful to know whether that is the case. Perhaps the Minister could give examples of the ways in which accountability can be achieved in the circumstances. In any event, if the Minister is willing to give an assurance that subsection (3) will have the effect desired by the noble Baroness, we would be willing to accept that.

In regard to Amendment 15, our attention alighted on the sentence of the noble Baroness about there being some merit in the suggestion that some employment and procurement difficulties in collaborations might be eased by the ability to delegate to some of the other functions in those areas. That relates to the problem posed by the Local Government Act where there is an inability to delegate. Is there any way in which to allow police authorities to delegate some of the functions to other police authorities without amending primary legislation?

Lord West of Spithead: My Lords, I recognise the concern behind Amendment 11. However, I do not believe that this point needs further clarification in statute. The Local Government Act 1972 permits police authorities to establish joint committees and to discharge their functions jointly through them. A discharge of the function of holding a chief officer to account for his collaborative work, as set out in Section 23D, via a joint committee is, therefore, permitted. The chief officer failing to recognise the authority of such a committee would be in breach of his duties, which for the avoidance of doubt may be set out in the provisions of the collaboration agreement. I would be happy to ensure that this position was clarified further in the statutory guidance to which chief officers must also have regard. I would add that the guidance will provide advice which the police authorities are helping to draft on the best ways in which they should structure their governance of collaborations under different circumstances.

Amendment 15 seeks to make changes to the Local Government Act 1982 in order to permit the delegation of functions from one police authority to another. When this matter was debated in Committee, I assured the noble Baroness that it should be explored further. Those discussions are continuing between the Home Office, the Association of Police Authorities and the individual police authorities. There is considerable pressure for more to be done to enable joint procurement and for policing to run more smoothly—not least coming from me. I was appalled by how poor the linkages for procurement were. There is a great deal of pressure to do something, and perhaps I may get back to the noble Baroness, Lady Neville-Jones, about whether

the issue can be delegated. I am not sure about the answer to that, but I hope that it has been examined because it is so important.

I would ask that the discussions between the Home Office and the Association of Police Authorities should be allowed to conclude before the most appropriate solution is taken up. I am absolutely certain that we need to make a move in this area. During Committee, the noble Baronesses, Lady Harris and Lady Henig, proposed that this constraint in the Local Government Act should be repealed in full. It might be that such a straightforward way ahead might be best, but we need to examine that before making a decision. I again undertake to seek to address the issue, which is recognised as a stumbling block for police authorities wishing to work better in collaboration with each other, as quickly as possible. On that basis, and in the light of my reassurance on the joint discharge of accountability functions, I would ask that the amendment be withdrawn.

Baroness Harris of Richmond: My Lords, once again, I am grateful to the Minister for his reply. I also thank the noble Baroness, Lady Neville-Jones, for her support, especially for joint arrangement working in Amendment 11. Having the promise of guidance and rigorous re-examination of these difficult areas, and having continuing discussions on joint procurement as we did not go for the merger of police authorities, it is important to have greater clarity on what we want to do in collaboration agreements between forces. I welcome the Minister's comments and beg leave to withdraw the amendment.

Amendment 11 withdrawn.

Amendment 12

Moved by Baroness Harris of Richmond

12: Clause 5, page 7, line 31, at end insert—

“() Before issuing guidance under this section, the Secretary of State shall consult—

- (a) the Association of Police Authorities,
- (b) the Association of Chief Police Officers.”

Baroness Harris of Richmond: My Lords, I shall speak also to Amendments 13 and 14, the last relating to Clause 5. They follow from our discussion on this part of the Bill in Committee. I am acutely conscious of the need to improve the resilience of policing at a strategic level and, in the light of the current financial situation particularly in the public sector, significantly to improve how protective services are handled and how efficiencies can be achieved in doing so.

I have carefully considered what the Minister said in Committee and taken the point that the Secretary of State is responsible to Parliament for national security. It is important for him to have some powers of direction over collaboration to ensure the strategic resilience of policing. My amendment therefore preserves this power. However, I do not entirely agree with some of the points the Minister made in Committee, hence the tabling of these amendments. However, before dealing with those individually, I shall summarise the overarching concerns that the amendment address—I hope for the last time.

This section contains very draconian and wide-ranging powers of direction which, if left unmodified, could be used at some point in the future in dramatic ways which are not intended. As I have said, although I accept that the present Government do not intend to use the powers inappropriately, once they are on the statute book they will present a temptation to all future Administrations. One day, an Administration may find it convenient to use the powers in a more far-reaching way.

At best, the powers confer the ability to micromanage collaboration between police forces and authorities; at worst, they could be used to direct that policing is restructured by the backdoor. It may or may not be that, one day, it will be right to restructure policing, but that should be done through the proper parliamentary process, not through another route that enables that process to be circumvented.

In Committee, the Minister did not really deal with my points about the pernicious nature of the powers in this section to give central directions to police officers. He talked about powers of direction not being new but, in that context, included powers to direct police authorities. That rather misses my point. The ability to give direct orders to chief officers is the thin end of the wedge of exercising central political control over policing.

We are all aware of the recent debates about the politicisation of policing, which the current, carefully crafted structure of the tripartite system is there to prevent. The Bill rides roughshod over that. Even on the Minister's words, it is intended to be used in a routine way. He stated previously that the powers were needed not as a last resort, but to develop a national consensus about consistent collaboration. I do not entirely buy that. I think that there are other ways of developing national consensus without using draconian powers.

I am of course aware that the Secretary of State has similar powers of direction in the current collaboration section of the Police Act 1996, which the provisions are intended to improve but, in the 13 years since the Act was originally passed, the tripartite structure has matured. Other powers to direct or intervene that have been introduced into policing legislation since then have recognised that, and have usually been careful to preserve the appropriate balance of powers. Sections 40 to 40B and Section 53A of the Police Act are examples of that. That has not prevented the use of central powers, but has limited how they can be exercised to preserve the independence of policing. Since then, there has been an move to greater local devolution and accountability. The Green Paper supported that aim, yet here we have centralising powers, which fly in the face of that and pretend that time has stood still.

I have taken on board two points that the Minister previously made. First, this section of the Bill cannot be tied to Sections 40 to 40B of the Police Act, because it deals with remedying poor performance, not with wider strategic issues, or the ability to specify what action may be needed in a collaborative context. Secondly, I noted his point that HMIC will be important in developing a proactive approach and providing advice to determine what action might be needed to improve collaboration and in scoping policing functions that could usefully be delivered in collaboration.

I have brought those points together in my amendment. It would enable the Secretary of State to give directions about collaboration, but only via police authorities, which could use existing powers available to them under the Police and Justice Act 2006 to ensure that their forces collaborate. That would mean that we could avoid the prospect of the Secretary of State giving orders directly to chief officers, but achieve the same outcome in terms of traction over collaboration. It would also ensure that the Secretary of State could exercise his powers only on advice from HMIC that it was in the interests of the efficiency and effectiveness of policing. Finally, it would give the authorities and forces concerned an opportunity to make representations about the direction that HMIC would have to consider in providing advice. This represents an appropriate balance between meeting the national strategic needs of the Home Secretary and preserving important safeguards and local responsibilities.

I shall be brief on my other amendments in this group. They relate to consultation before powers of direction are exercised and before statutory guidance about collaboration is issued. I heard that the Minister thought it was unnecessary to specify that this should include consultation with APA and ACPO because that would be done anyway, as they would be among other bodies that would be consulted. That struck me as a little too casual. By that yardstick, it would be unnecessary to mention anywhere in the Police Act that APA or ACPO should be consulted about anything, but they are statutory consultees to many aspects of the Police Act and other policing legislation. I wonder why the Minister thinks collaboration should be the exception. Given the problems that have accompanied attempts to collaborate, I find it particularly odd that he does not think it appropriate to mention consultation with the bodies that have experience of putting this into practice. It also, by implication, seems to place central interests first once again and pays scant regard to the rest of the tripartite structure. I do not see the problem with including this as it gives a formal say to the other legs of the governance structure in an area that will become increasingly important to policing. I beg to move.

Baroness Neville-Jones: My Lords, the noble Baroness spoke to her amendments in some detail, and I can be brief. They raise an important question: is the Bill consistent with the roles, functions and authority of police authorities set out in existing legislation that gives them the power to ensure that a chief officer complies with directions?

9 pm

Lord West of Spithead: My Lords, these amendments seek to constrain the Secretary of State's powers to direct police forces and police authorities to issue guidance about collaboration. It is reassuring that the noble Baroness does not seek to remove these powers completely because she clearly recognises the need to have the tools to carry forward strategic directions and supporting guidance where they are deemed necessary. Indeed, as she said, this already exists to an extent in legislation.

[LORD WEST OF SPITHEAD]

The dependency on efficiency and effectiveness is made explicit in Amendment 13, but it is not necessary. The Secretary of State is already compelled by Section 36 of the Police Act to exercise his powers in such a way as to promote those aims in respect of Part 1 of the Act, which the provisions in Clause 5 amend. Amendment 13 also seeks to allow directions to be given to chief officers only via their police authorities. To answer the noble Baroness, Lady Neville-Jones, we believe that this is consistent with the requirement to have police authorities with their powers. We are not trying to bypass them. I do not believe that this is a necessary change to the arrangement set out in Clause 5. The Secretary of State may wish to issue a direction to particular forces, for example, to follow a particular collaborative route or to modify the way in which they are currently collaborating, and at the same time would need to direct those forces' authorities to enable such a change. I do not see that this direct engagement with forces diminishes in any way the position of police authorities or their responsibility to govern the work of their forces. I am happy to clarify now that there is no question that any direction to be given to a chief officer would first involve consultation with him and his police authority. There will always be consultation before anyone is directed. Further, the amendments seek to make explicit such consultation, as well as consultation with the Association of Police Authorities and the Association of Chief Police Officers on directions and statutory guidance. They also seek to specify that the advice of Her Majesty's Inspector of Constabulary should also be sought.

It is fully intended that these avenues of consultation will be pursued as a matter of course. The mechanism that is being established to oversee and guide collaborative working through the tripartite national police protective services board involves all these organisations, and it is intended that it should make recommendations to the National Policing Board for any proposed directions in the future. The intention to consult these policing partners has been made very plain in Committee debates in both Houses of Parliament, and does not need to be spelt out again in the provisions of the Act.

I should add that before issuing statutory guidance or directions to the British Transport Police or the Civil Nuclear Constabulary, which are included in the provisions in Clause 5, the Secretaries of State for their respective departments would also be consulted as a matter of course.

On that basis, I ask the noble Baroness to withdraw her amendment.

Baroness Harris of Richmond: My Lords, I could have anticipated what the Minister said in response to my arguments. I have asked for the Secretary of State's powers to be constrained for a very long time and in many ways, and it still seems to fall on deaf ears. However, the Minister has slightly reassured me about the central direction to chief police officers by saying that he will consult, and consult broadly, all members of the tripartite arrangement before any directions are given. I will hold him to that and will watch very carefully, as I know the Association of Police Authorities will do, to ensure that those arrangements are working properly and effectively and that central direction to

chief police officers plays no part in future policing in this country. With his assurances, although I am not entirely happy with them, I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Amendments 13 to 15 not moved.

Clause 11 : Police equipment

Amendment 16

Moved by Baroness Neville-Jones

16: Schedule 3, page 83, line 8, at end insert—

“Information

7A (1) Regulations may make provision for or in connection with authorising the supply of information, other than excluded information, held by—

- (a) a police force,
 - (b) the probation service, or
 - (c) such other person as may be prescribed,
- to a person within sub-paragraph (2) for use for the purposes of any provision of this Schedule.

(2) The persons within this sub-paragraph are—

- (a) the Secretary of State;
- (b) a person providing services to the Secretary of State;
- (c) an approved person (within the meaning of paragraph 2).

(3) Information supplied under the regulations may not be supplied by the recipient to any other person unless—

- (a) it could be supplied to that person under the regulations;
- (b) it is supplied for the purposes of any civil or criminal proceedings; or
- (c) it is required to be supplied under any enactment.

(4) In sub-paragraph (1) “excluded information” means any information relating to or acquired as a result of—

- (a) the provision of medical or surgical treatment or care, or
 - (b) the provision of services by a social worker,
- other than information as to whether a person is having (or has had) treatment in respect of the person's use of any drug.

(5) In sub-paragraph (1) “the probation service” means—

- (a) in England and Wales, a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 or a provider of probation services;
- (b) in Scotland, a local authority within the meaning of the Social Work (Scotland) Act 1968.”

Baroness Neville-Jones: My Lords, this amendment probes Clause 11. I hope that this will be turned out to be an area in which we share the objective.

Clause 11 allows the Secretary of State to make regulations on the standards of police equipment for one or more police forces in order to promote efficiency and effectiveness. Clause 12 allows the Secretary of State to make regulations to require one or more police forces to adopt particular procedures and practices in order to facilitate joint or co-ordinated operations. Does the Minister accept that there have been problems, which are not limited to the police but extend across all emergency services, in responding to large-scale events such as terrorist attacks or natural disasters, because forces do not always share the same equipment and procedures? Arguably, the ability of the emergency services to work together is hindered by a lack of

national standards. Will the Minister therefore say how far the Secretary of State's existing powers to set regulations for equipment for all police forces and to require all police forces to adopt particular procedures and practices have been used to date? We on these Benches believe without question in the operational independence of the emergency services, but see the need for national standards to help to ensure interoperability.

Secondly, can the Minister say how far the Government intend to use these powers to achieve this desired interoperability on the basis of national standards in relation, in particular, to the police?

Lord West of Spithead: My Lords, Clauses 11 and 12 are valuable and necessary to improve information systems in policing. The proposed amendments would prevent the Secretary of State being able to make these regulations for a smaller number of forces and thereby prevent more effective collaboration below the national level. I do not believe that that is what the noble Baroness intends. Her point about needing to achieve better standards across the police forces and better interoperability is well taken, and is part of what we are trying to achieve by this. At the moment, it is not satisfactory and we have got to move forward to achieve that.

Clauses 11 and 12 will further strengthen the ability of the Secretary of State to provide a regulatory basis for convergence in support of the Information Systems Improvement Strategy that is being taken forward by the National Policing Improvement Agency with tripartite support. In the Green Paper we said that, if necessary, we would make changes in the legal framework in order to support this approach.

We believe that much progress can be made through voluntary collaboration. A number of regions have already begun such collaboration and the NPIA is working closely with those collaborations. But we need to be certain that, if it is clear that there are benefits to the public and the police service generally, whether in terms of operational effectiveness or management of costs, and that those can be achieved only through forces acting together, we can require them to do so. We also recognise that force IT is at different stages of development and that by making the legislation more flexible we also make it more equitable to apply. All those things are trying to achieve what the noble Baroness was talking about when she spoke to these amendments.

It is not our intention in any way to cut across the operational decision-making of chief officers and their police authorities. We are merely seeking to enable a more effective regime for promoting efficiency and effectiveness through co-operation, which is so fundamental and important. Existing safeguards are already in place to prevent excessive use of these powers. Regulations can be made under Section 53A only if the Secretary of State and Her Majesty's Chief Inspector of Constabulary are satisfied of various matters set out under subsection (7). Those safeguards remain unaffected by the government amendment.

Prior to any application of these powers criteria would also be developed in consultation with the police service using the existing legislative framework.

Decisions about services would continue to be taken at a local level, but to an agreed set of criteria underpinned by guidance. We do not expect to use the powers to make regulations frequently and there is no immediate proposal to use the power. The Secretary of State would use the power only where he considered that it was necessary to promote the efficiency and effectiveness of a police force—I have already said that I am concerned about some of these aspects—and, again as required by legislation, only where the Chief Inspector of Constabulary considered it necessary to do so. In the light of my response, I hope that the noble Baroness is convinced that there is no need for this amendment and I would ask her kindly to withdraw it.

Baroness Neville-Jones: My Lords, I thank the Minister for his reply. I am glad to hear that the Government share the desire for greater effectiveness and efficiency, which needs to be brought about by increased interoperability. I do not accept that my amendments would impede that. However, I am reassured by what he said about a shared objective. I hope that the Government will use their powers to increase the capacity of the police to operate on the basis of national standards, which is very important. On the basis of what the Minister has said, I beg leave to withdraw the amendment.

Amendment 16 withdrawn.

Clause 12 : Police procedures and practices

Amendment 17 not moved.

9.15 pm

Amendment 18

Moved by Baroness Henig

18: After Clause 12, insert the following new Clause—
“Police authorities: co-operation with local authorities

Any relevant council (as defined by section 20 (questions on police matters at council meetings)), and Schedules 2 (police authorities established under section 3) and 2A (metropolitan police authority) of the Police Act 1996 (c. 16), shall have a duty to co-operate with the police authority in relation to delivery of the Secretary of State's strategic priorities for police authorities set out in section 37A of the Police Act 1996 (setting of strategic priorities for police authorities).”

Baroness Henig: My Lords, I return to this topic having taken careful note of what the Minister said in Committee. I have considered carefully his view that a duty on local partners to co-operate with the police in delivering the Government's confidence target for policing is not necessary. He believed that it would merely duplicate the existing arrangements to co-ordinate public service agreements across government departments. I think that he was also saying by implication that it might skew wider public service agreement targets.

However, I am not convinced by this. The poor take-up of the confidence target by local authorities under their local area agreement arrangements indicates to me a continuing problem. I am not alone in coming

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to this conclusion; it is widely shared by colleagues across the police service. My amendment would not impose any targets on local government and, without there being targets to fulfil, I am unsure how it would duplicate or skew other, wider targets. What it would do is impose a responsibility to co-operate, which seems a rather different matter.

Most public organisations are already under a duty to co-operate with local authorities in helping them to deliver their local area agreement targets, which does not seem to have raised concern in government about duplication or distortion of public service agreement priorities. I am not sure why a duty to co-operate with policing organisations should be viewed as problematic while a duty to co-operate with local authorities is not.

Let us not forget that the target imposed on policing to improve confidence is doubly difficult, because it is expressed as a joint measure of confidence in police and local authorities. One understands how this has come about: it is based on the recognition that public confidence relies not just on what the police deliver but on wider social and community safety concerns. However, it seems strange that only one half of the equation must be assessed on what is a joint measure, while the other half may choose whether they are measured on it or not.

It remains a concern that a joint measure of confidence that is mandatory for the police but not for local authorities could diminish the enthusiasm with which one half of the partnership approaches this matter. Councils can sign up to the target as one of a suite of targets that they may choose to adopt with their local area agreements, but they do not have to do so. Not surprisingly, police chiefs have protested that their work to meet the confidence targets is very likely to be hampered, if not undermined, if partner bodies are not going to be under any duty to co-operate in dealing with anti-social behaviour issues or petty crime in their local area.

After some consideration, I have changed my original amendment to recognise that the key players in relation to aligning local area agreement targets and policing targets are the local strategic partnerships. The original amendment would have placed a duty on the wider crime and disorder reduction partnership, but most of these partners are not responsible for local area agreements. This amendment instead would place a duty to co-operate on local strategic partnerships in a rather roundabout way. This has been necessary because local strategic partnerships are not statutory concepts but are owned by the top-tier local authorities. It is the same top-tier authorities that nominate councillor members to police authorities, so I have defined the main partners in my amendment by reference to this.

As discussed in the earlier debate on this topic, I am told that out of 350 local authorities only about 50 have signed up to the confidence target. On my calculation, this means that there are around 300 local authority areas where the police are being asked to deliver single-handedly a joint target that they cannot completely control and where their key partner may have little incentive to co-operate. This will become particularly problematic in the financial environment that we are all facing, where resources will be tight and have to be

allocated to key priorities. Councils that have not adopted the target will have even less incentive to support it in these circumstances. It is obvious that this will have a detrimental effect on policing and on force performance, not necessarily through any fault of individual forces. This seems to me like an Alice in Wonderland situation.

If, as I do, one supports greater devolution and a reduction in central targets, one believes that it is inappropriate to impose additional targets on local authorities; as I stressed earlier, this is not a target. However, I do not see why councils should not at least be put under a duty to co-operate in delivering a target that relies partly on a measure of their contribution and effectiveness. If I could limit this by specific reference to the confidence target in the Bill, I would, but of course the confidence target is not a statutory concept. However, confidence is one of the Home Secretary's policing priorities, which are referred to in statute. The amendment has therefore been framed with reference to those priorities.

The key aim is to ensure that local authorities co-operate with the police in improving confidence, because this is a joint measure. In any event, and in the bigger scheme of things, it cannot hurt to strengthen partnership arrangements by asking that councils also co-operate in delivering other key policing priorities. I stress again that this is not the same as asking them actually to deliver or to be measured on these targets; it is simply about working together effectively at the local level, not about duplicating the strategic alignment of targets.

It has been said many times that the police cannot deliver community safety alone and in isolation from their wider local partners. My amendment acknowledges this and suggests a proportionate and co-operative solution. If this amendment is not accepted, we risk seriously undermining confidence in policing in the difficult financial climate that we will face. Not only are certain types of recession-related crime likely to rise, which is bound to impact on confidence levels, but the police will be left to firefight complex local social issues on which they will be measured but over which they have only limited influence. My fear is that this could have serious consequences for policing in future years. I beg to move.

Baroness Harris of Richmond: My Lords, I shall be brief in rising to support the amendment tabled by the noble Baroness, Lady Henig, which would place a duty on top-tier authorities to co-operate with police authorities in delivering the Secretary of State's strategic priorities and the confidence target. I was shocked, although perhaps I should not have been, to hear that only 50 out of 350 local authorities have signed up to the confidence target. The police cannot be expected to deliver in areas that are most appropriately dealt with in collaboration with local authorities. This is an important amendment and I support it strongly.

Baroness Neville-Jones: My Lords, I can be equally brief. This is a sensible amendment. As the noble Baroness opposite said, the police cannot single-handedly deliver safer communities, so they need to work effectively with partners to achieve success in improving public

safety and driving down crime. I, too, am struck at the large number of local authorities that have not signed up to the confidence target. It does not accord with what the Minister said previously, which was that the amendment would duplicate the current integration of strategic policing priorities with public service agreements and existing processes for setting local priorities. If that were the case, I do not think such a large number of local authorities would not have signed up to the target. It would be helpful for the House to hear the Minister explain the discrepancy and why this amendment to encourage the process is not necessary.

Baroness Howe of Idlicote: My Lords, having listened to what has been said on this issue, while I do not remotely pretend to be an expert in the area, I must say that I am convinced that rather more action needs to be taken in view of the small number of authorities that have signed up.

Lord West of Spithead: My Lords, I understand that my noble friend's amendment has been made with the single public confidence target for the police in mind to ensure that all top-tier councils have a duty to co-operate with the police in the delivery of the target. Local authorities in England, together with the police, are already under a duty to have regard to local improvement targets when exercising their functions, and the majority of local area agreements include one of the key public confidence indicators, showing a strong commitment on the part of local government to deliver on this shared agenda. Indeed, more than 40 per cent of local area agreements include at least one of the four confidence-related national indicators. In seeking to introduce any additional duty, we would have to give due regard to the new burdens of this assessment.

The comprehensive area assessment—a new joint way of assessing local public services in England—examines how well local councils are working together with other public bodies and is due to report shortly. It will assess progress on all national indicators regardless of whether they are included as a target in the local authority agreement. Where local authority performance issues are identified, a proportionate and co-ordinated response to identifying and tackling the improvement need will be delivered through a range of support options from local, regional and central government partners.

However, this does not mean that there are not other ways in which local partners can contribute more to delivery of the confidence target. Given the target's stretching nature, the Government are willing to consider what more local partners might do to contribute to its delivery. We propose to do this through a consultation with stakeholders. As to the duty of LSPs to co-operate, the comprehensive area assessments will measure all national indicators, as I have said, regardless of whether these have been chosen as a target of the local area agreement. This will therefore pick up where local areas are not making progress.

Having made that response—which I thought was a good response—I was quite shocked to hear the figure of 50 out of 350, so I sent a message to the Box to ask whether it was correct. It seems to me that local

partners can contribute more to improving confidence in their areas and that we need to consult on the best way to achieve this. While I do not wish to accept the amendment, I shall commit to going away and looking at this in some detail because, as I said, I was rather shocked by the issue raised by the noble Baroness. If I do that, I think that we will then have to enhance our consultation to see how we move forward. On that basis, I invite the noble Baroness to withdraw her amendment.

Baroness Henig: I thank my noble friend for that response. I listened carefully to what he said but I am not sure that he is fully sighted on the problem in view of what he said about being surprised at the poor take-up by local authorities. I found the earlier part of his response rather bewildering, because it seems that the Government are going round the houses in a haphazard way to meet what my amendment would meet in a direct way. I cannot understand why these abstruse arrangements are being entered into—they are extremely difficult to follow—when a straightforward approach would have met the issue.

I hear what my noble friend says. I am mindful of the fact that the single target for the police is now confidence; this is all that they are being measured on. It seems totally unfair that when they are being measured on this single overall target we are not giving them all the opportunities and facilities to deliver on it. It is important for the public to see what the police are doing and how they are doing it. If we are not going to bind all the partners in, it will put an unfair burden on the police. I urge the Minister to look at the matter again.

I am grateful for what my noble friend said. I hope that it will be possible to move in the direction that he has indicated and to help the police by doing something along the lines of my amendment. At this stage of the proceedings, I beg leave to withdraw the amendment.

Amendment 18 withdrawn.

9.30 pm

Amendment 19

Moved by Baroness Henig

19: Schedule 3, page 85, line 39, after “assessment” insert “, and a subsequent interview (a “drugs interview”) with an approved person to discuss any matters arising out of that assessment.”

Baroness Henig: My Lords, I return to the issue we discussed in Committee and which, indeed, some of us seem to have been discussing for some years now. I thank the Minister for the response he gave me at that time, which was essentially that councils would implement the guidance which had been issued by the Home Office and that the guidance strongly recommended that a police authority member should be included on a local authority crime and disorder committee. I am afraid that I do not share his confidence that the guidance will be enthusiastically taken on board everywhere. As I have pointed out before, there are several councils across the country that, as a matter of

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principle, will not include external people on their committees unless legislation requires them to do so—and guidance is not legislation.

It is important to say at this point that I have no worries about effective councils. They are deemed to be effective precisely because they understand the value of working appropriately with partner bodies. It is the less effective councils in general that, I suggest, may not follow Home Office guidance, thus compounding problems in some areas. I dealt with the history of this matter in Committee and will therefore summarise the situation only briefly. Crime and disorder committees were created under the Police and Justice Act 2006. They are effectively local authority overview and scrutiny committees when they sit to consider matters of community safety. The regulations governing how they should operate, however, were introduced only this year.

When that Police and Justice Act was originally a Bill in this House, I and a number of other noble Lords raised concerns about some of the proposals. The issues centred on the subtle difference between holding crime and disorder reduction partnerships to account as a whole through these committees and holding the individual partners to account. In a policing context, I was concerned that these committees would overlook the subtle difference and try to hold individual police commanders to account, which would conflict with existing arrangements for police accountability. Local commanders are responsible to their chief officer, who is in turn accountable to the police authority. Crime and disorder committees might therefore be tempted to stray into undertaking the statutory job of other bodies.

I was led to understand by the then Minister that, to overcome these concerns, provisions would be placed in regulations specifying that crime and disorder committees must include a police authority member. Alas, in the event this did not happen. When issued, the regulations included a provision that councils “might” co-opt external members, but not that they must. The guidance that was issued at the same time merely recommended this as good practice.

The Minister expressed confidence in Committee that local authorities would ensure that police authorities played an active part in these committees, but he also mentioned that it was important to allow for local flexibility. Interestingly, when we originally debated this matter some three years ago, we agreed that it was more important to ensure that we got accountability right. I am not clear what has changed since then. One has only to look at some of the promotional literature currently being circulated, offering advice on implementing the new regulations. Phrases like “scrutinising the police” crop up all too often, demonstrating that there is indeed a widespread misconception about the role and remit of these scrutiny committees.

This leaves me with significant concerns that, in areas where police authority members are not co-opted to these committees, the committees will overstep their remit and seek to hold local police commanders to account. That risks creating tensions between local

authorities and both police forces and police authorities, which will have a detrimental effect on partnership working.

Police accountability and how to make it effective is an important current preoccupation, and rightly so. We have to ensure that new legislation such as this supports and strengthens existing arrangements rather than offering any possibility of cutting across them. I would be happy if the Minister could tell me that the regulations will be reconsidered, but I fear that he will not be able to do so, any more than he was able to give me that reassurance in Committee. I beg to move.

Baroness Harris of Richmond: Unsurprisingly, my Lords, I support Amendment 19. When this Government came in and started talking about crime and disorder committees, those of us then on police authorities spent a great deal of time working out how best these could be set up and scrutinised. We always felt that it was important to have a member of a police authority on that committee. It is important that the committees understand the work of the police and are able to have someone with a little expertise to explain some of the difficulties and constraints within the policing arena. Good councils, as the noble Baroness, Lady Henig, reminded us, will do the job well with crime and disorder committees, but it is important that bad ones—those that are not engaged at the moment—do so as well. Anything that the Minister can do to ensure that police authority members are included on local authority crime and disorder committees will be very much welcomed. It is extremely necessary.

Lord West of Spithead: My Lords, the amendment would make it compulsory to have a member of the local police authority as a member of crime and disorder committees. This is an interesting point, but regulations made under the Police and Justice Act 2006 already enable the co-option of additional members to crime and disorder committees, including police authority members. Although this is subject to local determination, supporting guidance, drafted in partnership with the Association of Police Authorities, encourages local authorities to presume that police authorities must play an active part on the committee and provides clarity on the circumstances in which police authority members can add value to the work of a scrutiny committee.

I am confident that existing arrangements will encourage local authorities to ensure that police authorities play an active part at committee when community safety matters are being discussed, particularly when the police are to be present. Given the early stage of implementation of overview and scrutiny of crime and disorder matters, I would not want to draw a conclusion as to whether local authorities are, in fact, engaging with police authorities. However, we will continue to monitor implementation. The effect of this amendment would be to prejudice the effectiveness of implementation of the current arrangements. It would also put a new burden on police authorities to put forward a member for each overview and scrutiny committee within their force area. In London, that would mean 33 committees. For those reasons, I ask the noble Baroness to withdraw her amendment.

Baroness Henig: I thank my noble friend for that response. It will not surprise the House to learn that I do not share his confidence. Those of us who have a lot of experience of local government, particularly in two-tier areas, know all about the problems, rivalries, difficulties and dangers. The Government are just piling up legislation that rests on other legislation. At local level, you then find that accountabilities get blurred and all sorts of problems rear their heads. I hope that the Minister's confidence is justified and that this all works, but I have a great concern that it will not, that there will be problems and that they will continue into the future. With past legislation, I was in the position of raising the alarm and, lo and behold, after a few years it was necessary to revisit the legislation. I fear that this will be the case again here, but I do not wish to hold up the business of the House. I beg leave to withdraw the amendment.

Amendment 19 withdrawn.

Clause 14 : Paying for sexual services of a prostitute subjected to force etc: England and Wales

Amendment 20

Moved by **Baroness Miller of Chilthorne Domer**

20: Clause 14, page 17, leave out lines 33 and 34 and insert—

“(c) A is aware, or ought to be aware, that C has engaged in exploitative conduct of that kind”

Baroness Miller of Chilthorne Domer: My Lords, with this amendment, we move to Part 2 of the Bill, on sex offences and sex establishments, and prostitution in particular. Clauses 14 and 15 have presented the most difficult issues. We also found that to be the case in Committee. I appreciated very much the letter of 2 November from the noble and learned Baroness, Lady Scotland, as I did her usual clarity of position and her recognition of the fact that there are arguments for different approaches. She said that the Government's position is clear. However, I think that tussling with the different positions has been very difficult for everybody.

Since Committee there has been a considerable amount more evidence—letters, e-mails and testimonies. As Liberal Democrats we believe—and, as a woman, I believe—that there should be zero tolerance of coercion, violence or sexual abuse towards anybody working in the sex industry. Those who have been trafficked into this country and forced to work in the industry against their will should expect and receive full protection under the law. I am not speaking to defend men who buy sex. I am moving this amendment in response to concerns about the effect that this legislation will have on some of the most vulnerable women in our society, and that was very much the tenor of our debate in Committee. The Government explained the strict liability aspect of the offence, saying that it was likely to have the effect of reducing demand. The evidence on that issue and how it has been approached by other places in the world has also formed part of our thinking in retabulating these amendments.

Those who support Clause 14 say that making men criminally liable for,

“Paying for sexual services of a prostitute subjected to force”,

will drastically reduce the demand for such services and reduce the incentive for traffickers to traffic women. That belief contains two assumptions that I do not believe are correct: first, that most prostitutes are trafficked women; and secondly and more importantly, that this legislation will make that trade lessen and disappear by further criminalising the sexual services trade. The supporters of the Bill do not accept that it will drive the trade underground and endanger the very vulnerable women that they seek to protect.

If I believed that the Government's assumptions were true I would support Clause 14. However, I have looked carefully at the evidence and it does not support those two assumptions. First, there is the evidence on trafficking, which we have had a lot more of since debating this in Committee. The Home Office figures on the number of people working in the sex trade who have been trafficked have themselves been widely challenged. That was no surprise to us because we quoted in Committee the work that was just being published by Dr Mai and that had been funded by the ESRC. The *Guardian* report of 20 October also produced many more questions about the veracity of the Home Office figures.

Be that as it may, let us suppose for a moment that the Home Office is right about the figures. The next question to answer is whether as a result of the provisions the sex trade will disappear, or whether it will continue to exist but as a less dangerous place for women to work. There is lots of evidence on that from countries all over the world, including the US, which, with the exception of one or two states, has a highly criminalised system. For us, however, the most persuasive evidence came from those who work with women in the sex trade and those who work with the women themselves. I want to share with the House some of what I have heard since we debated this in Committee.

As far as those who are trying to improve the life of women in the sex trade are concerned, I shall simply cite, for instance, Georgina Perry from the Open Doors project in the East End of London. This project has been going since 1993, and it sees about 1,200 women a year who work in indoor sex and about 300 who work on the streets. Many are migrant women. They do not believe that the percentage of those who are trafficked is significant at all, but that the women who they work with are there because of economics, not force. They believe that it is essential to tackle health issues, first and foremost, and to support the women. They are deeply worried by these clauses.

In theory, many academics who have studied these issues for years and years are, equally, deeply against the Bill—I am sure that Ministers are aware of their names. Perhaps most persuasive are those who see the really terrible side. Women Against Rape are also deeply worried by these clauses. When we debated the provisions in Committee, the Government stated that this new offence,

“is distinct from rape because there is no requirement to show that the defendant knew or ought to have known that the prostitute was threatened or deceived”.—[*Official Report*, 01/7/09; col. 278.]

As these provisions introduce a lower tariff, there will be a temptation to prosecute under them even in cases where prosecutions should be directed at the offence

[BARONESS MILLER OF CHILTHORNE DOMER]
of rape. It is extremely rare to successfully convict someone of rape, particularly in such cases.

However, the most persuasive case for my amendment is made by the women themselves through the English Collective of Prostitutes and the International Union of Sex Workers. I am aware that supporters of Clause 14 are somewhat dismissive of these women's comments and claim that they often represent the views of pimps and exploiters. However, that is not the case with the women I have met who have attended many meetings in Parliament. These women are very fearful that the trade will be driven underground.

9.45 pm

We need to look again at the evidence from the JCHR, which made its case forcefully. It referred to the likelihood of the measure having unintended consequences, including driving prostitution further underground and increasing the vulnerability of prostitutes. I do not think that the Government have provided new evidence to assuage the JCHR's fears. The Joint Committee further stated that legislation should be firmly based on evidence. It considered that it was particularly important when new criminal offences were proposed to show why the existing criminal law was inadequate to deal with the targeted conduct and how the proposed new offence tackled the behaviour in a proportionate way. In the committee's view that was even more imperative when the proposed new offence was one of strict liability. My noble friend Lord Thomas of Gresford will expand on that.

This matter was fully debated in the Commons, where some improvements were made to Clause 14. However, we are still left with the necessity of dealing appropriately and effectively with trafficking and rape. Given the many problems associated with the proposed new offence, we believe that the relevant clauses should be removed from the Bill and that the Government should instead consult on the creation of any new offence. I am sure the Minister will mention that consultation began with *Paying the Price* and that this measure is the end result. I believe absolutely in her sincerity in promoting her case, given her record on domestic violence, on which she has worked very hard. However, in this instance I am deeply worried that the Government are pursuing a line that will increase these women's vulnerability and will not solve the problem. We should be looking at better enforcement of existing law rather than creating this new offence. I beg to move.

Lord McColl of Dulwich: My Lords, I support the retention of Clause 14 because it begins to put the responsibility for prostitution onto the man who chooses to buy sex instead of on a seller who, because of exploitation, has no choice. Some people are concerned about the strict liability element of the clause and it has been claimed that there are no current examples of strict liability in similar offences in UK law. However, there are cases where strict liability has been employed; for example, in Section 5 of the Sexual Offences Act 2003, which makes it an offence to have sex with a child under the age of 13, regardless of whether it can be proved that the offender knew that the child was under age or whether the child consented to the sexual activity. This is in place because of the abhorrent

harm inflicted through child sexual abuse. Secondly, Section 4 of the Road Traffic Act 1988 makes it an offence to drive or attempt to drive under the influence of drugs or alcohol, regardless of whether the driver is aware of this.

It is important to consider how effective Clause 14 would be without a strict liability element. The answer is to be found in Finland. The Finnish Parliament voted in June 2006 to pass legislation that criminalises the buying of sexual services from a victim of human trafficking or from someone who is a victim of procurement. In order successfully to prosecute a buyer of sexual services, evidence has to be provided that the man in question knew that he had purchased and sexually exploited a woman who was a victim of trafficking in human beings or who was under the control of a pimp. Due to the difficulty of enforcing the legislation, no convictions were secured until January of this year, when 16 people were convicted. Fourteen of the convictions related to the case of a severely mentally disabled young Estonian woman. The other two convictions related to a young Finnish girl who was held in a basement on the Russian/Finnish border.

The nature of these cases makes it evident that unless the burden of proof is on the accused, it is almost impossible to obtain convictions. Would-be exploiters know this, and the law is, therefore, of very little deterrence. We know that a significant number of women in the sex trade are subjected to physical violence and rape, and are exploited by a third party. Such women are powerless to do anything about it. By contrast, the person who pays for sexual services does have a choice. If Clause 14 is passed, he will know in advance that he must satisfy himself that he has reasonable proof that the woman is not controlled for gain by a third person. If he has no such proof, he must desist or run the risk of prosecution under Clause 14. He has that choice. That is what strict liability means in practice in those circumstances.

I can see absolutely no injustice in this. To avoid any risk of conviction, the person intending to pay for sex should assume that the person he is about to pay is controlled by a third person and, therefore that he commits an offence for which he may be convicted. Thus, in practice, the benefit of doubt is given to the person who is in danger—the one who is powerless; the one who may have no choice. That is as it ought to be. Put another way, a man who wants to pay for sexual services must make sure that the person he is to pay is not being exploited by a third party. If he cannot be sure, he risks conviction. That is the message of Clause 14, and it is a message that this House should send loud and clear, because it is designed to protect those who most need the law's protection.

We need to do all we can to protect women and children who are subjected to commercial sexual exploitation. We must take this step to reduce exploitative prostitution and protect those who are currently unable to protect themselves. The human trafficking trade in the world is worth \$44 billion. We must do something to reduce that.

Lord Pannick: My Lords, I support the amendments proposed by the noble Baroness, Lady Miller. Without the amendments, the customer will be guilty of a

criminal offence however careful he may be to check whether there is exploitative conduct by another person, and even if it were not possible in all the circumstances for the customer to identify whether exploitative conduct has occurred.

Of course, as the noble Lord, Lord McColl, indicated, the criminal law is replete with examples of strict liability offences, some of which are sexual. However, I cannot think of any other example where the defendant can be guilty of a criminal offence on a strict liability basis when he is a secondary party; that is, when he is not responsible for the primary wrongdoing, which here is the exploitation. That is what distinguishes this case from the examples given by the noble Lord, Lord McColl.

To impose strict liability on the secondary party—that is, the customer—so that he has no defence however careful he is to ascertain whether the mischief of exploitation by another person has occurred, is to make the secondary party, the customer, liable for the wrongdoing, namely the exploitation, which he has not caused. That is simply wrong in principle. If the Government take the view—and there is some force in the argument—that exploitation is endemic to prostitution, and therefore any customer bears a responsibility and should be liable, let them come forward with a clause that makes it a criminal offence to purchase the sexual services of a prostitute. However, if they are not prepared to do that, they should not put before this House and Parliament a clause in the form that we currently see.

Lord Thomas of Gresford: My Lords, I disagree with the noble Lord that the law is replete with examples of the extension of strict liability to acts of a criminal character. Strict liability is usually to be found in enactments that apply to particular trades—for example, the sale of food, drink or medicines—where it is in the public interest to enforce regulatory standards.

The Law Commission, in its Working Paper No. 31, considered the mental element in crime and said:

“To make a person liable to imprisonment or criminal sanction for an offence which he does not know he is committing ... is repugnant to the ordinary man’s conception of justice and brings the law into contempt”.

Lord Reid—a very wise man, and very frightening to appear before—said, in the leading case of *Sweet v Parsley* in 1970:

“It does not in the least follow that when one is dealing with a truly criminal act it is sufficient merely to have regard to the subject matter of the enactment. One must put oneself in the position of a legislator”.

We are the legislators. Lord Reid continued:

“It has long been the practice to recognise absolute offences in this class of quasi-criminal acts”—

that is to say, regulatory offences—

“and one can safely assume that, when Parliament is passing new legislation dealing with this class of offences, its silence as to mens rea means that the old practice is to apply. But when one comes to acts of a truly criminal character, it appears to me that there are at least two other factors which any reasonable legislator would have in mind. In the first place a stigma still attaches to any person convicted of a truly criminal offence and the more serious or more disgraceful the offence the greater the stigma. So he”—
the legislator—

“would have to consider whether, in a case of this gravity, the public interest really requires that an innocent person should be prevented from proving his innocence in order that fewer guilty men may escape. And equally important”,

said Lord Reid,

“is the fact that fortunately the Press in this country are vigilant to expose injustice and every manifestly unjust conviction made known to the public tends to injure the body politic by undermining public confidence in the justice of the law and of its administration”.

So the extension of strict liability to acts of a truly criminal character is extremely limited.

10 pm

The noble Lord, Lord McColl of Dulwich, referred to Section 5 of the Sexual Offences Act 2003 concerning the rape of a child under the age of 13. The offence requires merely proof of an intentional penetration with the penis but does not require knowledge that the child is under 13 and does not permit any defence of reasonable mistake as to age. It is not a question of changing the burden of proof; there simply is no defence.

That was so far beyond the ordinary principle that it was subject to an appeal to the House of Lords in the case of *G* in 2008. It was contended that Section 5 of the 2003 Act was incompatible with a presumption of innocence guaranteed by Article 6.2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. That was considered but rejected by their Lordships in this House. They held that proof of the intentional penile penetration of a child under 13 years of age was all that was required for a conviction under Section 5 of the 2003 Act. So, to the extent that there was no defence but that the accused believed the other person to be aged 13 or over, it was an offence of strict liability. However, their Lordships said that the policy of the legislation was to protect children and there was nothing unjust or irrational about a law which provided that a male who so penetrated a young person who was in fact under 13 years of age had committed an offence. The focus was on that policy. The noble and learned Lord, Lord Hope of Craighead, who is very familiar to your Lordships, said:

“There is no doubt that when section 5 of the 2003 Act was enacted the protection of children was one of the primary concerns of the legislature. Furthermore, as Rose LJ said in *R v Corran* ... its purpose is to protect children under 13 from themselves as well as from others who are minded to prey upon them”.

The important point is that, by contrast, under Section 9 of that Act sexual activity with a child between the ages of 13 and 18 requires the prosecution to prove not merely intentional penile penetration of a child but also that the defendant does not reasonably believe that the child is 16 or over. In other words, when a child is 13, the Sexual Offences Act 2003 does not impose strict liability for that criminal offence, and the person who is a defendant for having sex with a girl over 13 and under 18 has a defence to say that he thought she was over 16.

Why, then, should the concept of strict liability be introduced into the offences of paying for sexual services of a prostitute subjected to exploitative conduct? I am grateful to the noble Lord, Lord Pannick, who pointed out that it is at one remove at any event, and that a very considerable amount of harm and damage is being done by the exploiter.

[LORD THOMAS OF GRESFORD]

The offence put forward by the Government is not considered serious enough even to be an indictable offence. It can be prosecuted only in the magistrates' court. The maximum penalty in the offence before your Lordships is a fine not exceeding level 3—that is, up to £1,000. Therefore, there is a defence to having sex with a girl between the ages of 13 and 16, which is that you thought she was over 16. However, the Government have put it as a magistrates' court offence with only a fine but they wish to impose strict liability. It is a huge leap in principle. Is the use of prostitutes so great a social evil as to be compared with having sex with a child over 13 and more serious than non-consensual sex with a child between the ages of 13 and 18?

The amendment tabled by my noble friend does not attempt to minimise the need to protect prostitutes who are subject to exploitative conditions. To be proportionate, the defendant must surely be able to say, when he is brought before the magistrates, that he did not know or have reason to know that a third party was exploiting that prostitute. Why do the Government say that, unlike the whole calendar of criminal law, including murder, rape, terrorist crime, armed robbery, and fraud, all of which require mens rea—an intention and knowledge in the head of the person—this new offence of strict liability, this magistrates' court offence, is punishable by a maximum fine of £1,000? Why is this suddenly to become strict liability so that a defendant has no defence? Is it to send a message? We could abolish the need to prove intent or knowledge to send a message about murder or rape. Abolishing mens rea in all serious criminal offences would send a message. I suggest that the only message to be sent is that the Government have lost a sense of proportion in considering this offence.

Lord Morrow: My Lords, I wish to express opposition to Amendments 20 to 25, particularly to Amendments 23, 24 and 25, as they impact directly on Northern Ireland. I wish to express my support for Clause 15 of the Policing and Crime Bill, which makes it an offence in Northern Ireland for someone to buy sex or try to buy sex from someone subjected to force. Increasing demand for paid sex is a matter of national shame. Not only does it result in more women being drawn into forced prostitution from within these islands but also in women being trafficked and, yes, trafficked into Northern Ireland.

In March this year, the Police Service of Northern Ireland announced that 11 trafficked women had been rescued from sexual slavery in the previous 12 months and since then another six had been rescued in Belfast and Londonderry. In March, the assistant chief constable, Drew Harris, explained that traffickers were targeting females from sub-Saharan Africa, eastern Europe or the Far East with the promise of a far better life. He said:

“When they are actually brought here they are forced into prostitution ... We can expect that this will be a continuing problem for us because the profits involved and the criminal networks that are involved see this as a very lucrative business ... People could have a brothel quite close to them and they should be aware of that, that it could actually be one of these brothels with women in it in the most awful circumstances in sexual servitude”.

We must confront the fact that forced prostitution exists only because there is a demand for it. If it was not for that demand, there would not be women languishing in forced prostitution in Northern Ireland and in the rest of the UK today. Crucially, the fact that there are women in such deplorable circumstances is not helped one bit by the fact that buying sex from someone who is subjected to force is completely legal. There is a terrible sense in which anyone who buys sex from women subjected to force can do so in good conscience, going to bed at night knowing they are a good citizen who has broken no law.

How can we celebrate, first, in 2007 the bicentenary of the abolition of the slave trade, passed by an Act of Parliament, and then this year, the 175th anniversary of the release of all British colonial slaves that was again the result of an Act of Parliament, saying to ourselves, “Never again”, and yet take no action in relation to the sexual slavery that is in our own midst, sustained not by an evil foreign power, but by British men? This is a matter of great shame for our nation and I very much welcome the Government's attempt to use the law to make it illegal to buy sex from women subject to force, thereby combating contemporary slavery.

I am of course aware of the argument that says if you make it an offence to buy sex from someone subjected to force, you will push forced prostitution underground and women will suffer more. I do not believe, however, that this stands up to close scrutiny. If we do not make it an offence to buy sex from people subject to force, women will continue to be drawn into forced prostitution and more and more will suffer.

If, on the other hand, we do make it an offence to buy sex from women subject to force, some men will think again, mindful of the fact that the shame of being caught buying sex from someone subject to force will be considerable, and fewer women will suffer. Moreover, we must not forget what the Swedish police have told us; namely, that making buying sex an offence does not push prostitution underground in the sense of being beyond the law's protection. Pimps have to advertise to their punters and reel them in, and it is in doing this that they give themselves away and the police can move in and take action.

Then there are others who question the wisdom of Clause 15 on the grounds that strict liability infringes the civil rights of those buying sex, if they are deemed to have committed an offence regardless of whether they knew the person from whom they purchased sex was subject to force. While I do not have very much sympathy for anyone buying sex in any context, I have no desire to set unhelpful precedents in relation to strict liability generally, and am persuaded that we must take very great care before applying it. In this case, however, it seems to me that the two tests set out by Lord Reid in *Sweet v Parsley*, the leading judgment on the creation of strict liability offences, and elaborated on by Lord Scarman in *Gammon v Attorney-General of Hong Kong*, have been passed.

The first is that there is a clear public interest and public safety imperative, not least because forced prostitution is umbilically attached to organised crime in the form of drug and people trafficking, although there are numerous other reasons, such as its association

with a very much higher than average mortality rate. The second is that without the strict liability component, the offence would be rendered very much less effective. As in Finland, where such a law exists, punters and pimps would know that if caught they could always say, "I'm very sorry, I didn't know the person from whom I purchased sex was subject to force". And so long as they were not subject to very obvious duress, it would be fairly impossible for the authorities to demonstrate otherwise.

Clause 15 is very welcome in Northern Ireland. It makes sense, while the arguments advanced against it do not hold together. Not only that, but it is supported by some 64 NGOs, many of which, like Beyond the Streets, have considerable expertise of working with women in prostitution, helping them to find routes out and a fresh start. Thus I would call on noble Lords here tonight to support Clause 15—and indeed Clause 14—and to reject Amendments 20 to 25. Let us use this opportunity to take decisive action, making it plain, in this the 175th anniversary of the release of all British colonial slaves, that there is no room for the sexual slavery in the United Kingdom, including Northern Ireland.

10.15 pm

The Archbishop of York: My Lords, Clause 14 is entitled:

"Paying for sexual services of a prostitute subjected to force".

That is the controlling element: the force. It seems to me that a person who purchases sex ought to know. If I drive a motor car that does not have a proper licence, an MOT or insurance and then say, "I did not know", the law is very clear. I have always believed that law always states public policy. If you withdraw the whole question of strict liability, it will become very difficult, as the noble Lord, Lord Morrow, said. Finland had in the end to decide because there was no way that they could prosecute some people who were engaging in forced sex. It is not about prostitution in general, it is of a particular kind where people are subjected to force.

The noble Lord, Lord Thomas, speaks with great eloquence and persuasion. There is a bit of me that says, "Yes, the accused always needs a very good defence". But if the statute clearly states what the law is, ignorance—as you and I know—cannot be a defence. You cannot say, "I didn't know", if the statute is very clear. If on a Sunday, instead of being in church, I decided to go to a car boot sale and bought a lot of goods there and was then arrested for purchasing or having stolen goods, or if I decided to sell the same goods another day, the defence would say, "This was in an open place, so it was absolutely safe", but the trader, the seller, would say, "You bought them knowing that they were in a car boot sale". If I bought an electrical good that short-circuited and ended up injuring someone, I could not say, "I was not aware, I was not so sure that the goods were not of the right quality".

It seems to me that the law of strict liability simply states a policy: that in cases where force has been used, you ought to ask, you ought to know before you purchase that sex. If people simply say that they are assuming that all prostitutes have not been subjected to trafficking, to abuse or to people behind them who say that they must engage in that activity, we are really

saying that some of the women who engage in those acts do so freely. In the past week also, prostitutes have written in our daily papers saying, "From my experience, it may have well looked as if I was genuinely and freely engaging in this, but there were pimps behind me forcing me to get into this activity".

For me, strict liability is a statement of policy and a statement of law, just as we have it on so many other things. On the nuancing by the noble Lord, Lord Thomas, about a child, if the policy had not been stated as it was, most people would get away with it. They would say, "The child looked to me as if they were 16". My dear friends, I do not think that that is the way that we should go. As far as I am concerned, if you remove strict liability, you can forget the clause itself. It will lose its power, it will lose its definition and people will not know. I beg to say that the Government have got it right; I am not one of those who constantly supports them, as you will know, but I think that they have got the clause right. If you do your research and if you get as many letters as I do, you will know that most people are saying that trafficking has become endemic. Women are being forced into activities in which they would rather not be involved. Gang and organised crime is part of all this. Let us send out a very clear statement that in this country, if you purchase sex where the prostitute has been subjected to force, you ought to know. If you do not know, the law will state clearly what the penalties will be.

Baroness Howarth of Breckland: My Lords, I shall be brief because many of the points that I would have made have already been made. I support the Government's position and shall speak against the amendment. Yesterday evening, I was the only Peer who went to a meeting in this House that was packed with organisations that support women caught up in the sex trade and the young women themselves. They asked me to bring their message, which is why I am speaking.

Before I do that, I shall comment on the ideas about evidence expressed by the noble Baroness, Lady Miller. Those of us who have worked in this field for many years know that there are all sorts of difficulties about evidence on numbers in the sex trade. I have been a social worker for—shall I admit it?—30-plus years and, for all those years, I have worked with women in various places. They have never been able to come forward. They would never have won a case in court. We know that many women who are raped or children who are abused never go to court because they know that they would not win their case.

We also know that there are all sorts of figures about sex trafficking. Hillary Clinton launched the State Department annual report on human trafficking this year. The UN Office on Drugs and Crime produced its own assessment. It stated that more than 21,400 victims were identified in 111 countries in 2006, but the number of convictions for trafficking was just not proportionate: two out of five countries covered by the report had not recorded a single conviction. There are real issues about the evidential base on trafficking and about numbers.

I am not an expert in strict liability, but when I met the women last evening I said that there would be two arguments on the Floor of this House. One would be

[BARONESS HOWARTH OF BRECKLAND]
 the legal argument about whether the law would be enforceable. We have heard the pros and cons on that. The other would be that prostitution would be driven underground, which would be worse for women. They asked me to bring the message that they thought that the law needs to set a marker. I think that it should be a stronger marker, but at least this is a marker. The second message is that they feel that, if the law was there, prostitution would not be driven underground because they would be able to come forward. Many organisations would be able to come forward with more evidence than feel able to do so in the present position.

We should remind ourselves what “subject to force” means. Most of us use that phrase thinking of subject to force during the act, but it is about youngsters who have been brought into this trade by their boyfriends. Let me remind the House about numbers. The average age in Europe for entry into prostitution is 14. I have never understood why the law of strict liability stops at 13. That is something that the Government might look at. Youngsters are young until they are 18. Think of your own daughters, your nieces, the children you care for at the age of 14 or 15.

At 14, these youngsters come in, often from care. They certainly do not come, on the whole, from posh backgrounds. Those few women who do, and think that they control their own lives, are not typical of the young women, the prostitutes, whom I have met. Seventy-five per cent enter before their 18th birthday. That is child abuse. Once in the sex industry, they are pretty much lost. Ninety-five per cent become hooked on class A drugs. Getting out is almost impossible unless they are fortunate enough to be helped by one of the excellent organisations working in this field.

Being subject to force means that they will have a boyfriend whom they thought they could trust but who becomes their pimp, they find themselves caught up in organised crime to get the drugs on which they have become dependent, or they are poor and are doing it to support their children. What kind of society allows the degradation of a mother, with all the social and health issues involved, to support her children? We can do better than that.

I agree with the noble Baroness, Lady Miller, that we need to do more about health, education and supporting the groups that can help these young women to come out of the sex trade, but last night I listened to the stories of these women, who are all hoping desperately that noble Lords will support Clause 14. It will stop providers enslaving women, or at least deter them, because even if you are a user and not the pimp you are complicit; there is no other way of looking at it. If you see some of the young women whom I have seen, there is no way in which you could not know, as the most reverend Primate the Archbishop implied, that they are damaged goods. They need to get out of that damage and live a life.

I hope that noble Lords will go into the Lobby not sorry for the users but with the words in their mind of a young woman who said, “I had to say I enjoyed it, and I didn’t—I had to say I chose it. It’s what the Johns want to hear. As a prostitute, I existed for their

pleasure. My body and words were for their pleasure. The real me was effectively mute”. I support Clause 14 in the hope that it will set down a marker and get away from the idea that men are entitled to sex whenever they want it. There are good men who will stand instead for the rights of women and children so that they can live decent lives that are free from coercion and the slavery of the sex trade. I hope that noble Lords will support the Government.

Baroness O’Cathain: My Lords, the issue that we are debating this evening is profoundly humanitarian. Prostitution is almost always seen as a female issue, but of course it is not; it is a scourge that affects both genders. I see it as a human rights issue that relates specifically to the abuse by people of people in the form of bullying and exploitation. Clause 14 is a measure to protect children, teenagers, young adults, and indeed older vulnerable adults, from being bullied, not in the playground or by gangs roaming the streets but into prostitution—a demeaning and extremely dangerous occupation. It is the responsibility of the state to protect the vulnerable. We have a long and praiseworthy history of doing just that, but the people who have been and continue to be bullied into prostitution have somehow dropped off the radar screen.

According to the Home Office, as many as 70 per cent of the women involved in prostitution were drawn into—bullied into—prostitution as children. I do not have comparable information for men, but it is probably no different. This is an horrendous statistic. Not only the underclass of society is involved; the children or grandchildren of Members of this House could also be involved.

Let me digress for just a minute. During the terrible teens, children often run away from home or school. This is not necessarily a reflection on the circumstances at home or at school; it is just a fact of life. These teenagers feel that the whole world is against them. They rebel against parental discipline because they see their friends doing it and they do it. Fortunately, most realise that it is a cold world out there and in most cases return to the warmth and comfort of the home. Others do not have a warm and comfortable home. The parents are fed up with them, and they are left on their own and just leave. We all know of cases and have read stories of such behaviour. The one thing that these children have in common is that they are very vulnerable. We all have experienced great vulnerability from time to time, but normally have the resources to cope with it. These children do not. In addition, migrants—not necessarily illegal migrants—are also vulnerable. In both cases we know only too well that pimps are on the prowl recruiting from the vulnerable, and then grooming begins.

10.30 pm

When one drills down into the nature of prostitution in this country, one is faced with an appalling story. It is a story of which I have been utterly ignorant and I regard it as a major flaw in my work here in this House. This has come to me as such a horrid shock. Let me give you some facts: 85 per cent of women in prostitution say that they were physically abused as children; 70 per cent spent time in care; and 45 per cent

have experienced sexual abuse. Any of those experiences are so demeaning that self-worth and self-respect vanish. They are an easy target and the pimps have rich pickings. Most of those women have experienced a lifetime of abuse. Prostitution perpetuates that abuse.

Many have observed that trafficking women into prostitution is a modern form of slavery, on which the noble Lord, Lord Morrow, dwelt. This Parliament led the world, as we already know, in the 19th century in fighting slavery, but other countries are now ahead of us in tackling the social evil of sex trafficking. We are so often told about prostitutes who regard prostitution as a business, one where some make much money, and can shut out of their minds what they are doing. But, if the research is to be believed, they are in a very small minority. According to that research, 90 per cent of prostitutes say that they want to escape prostitution, but they do not feel able to do so. The noble Lord, Lord Pannick, says that there is no evidence of exploitation. I suggest to the noble Lord that if 90 per cent of prostitutes say that they want to escape prostitution, that is evidence of exploitation. They are, or they feel, trapped.

In this country we have great campaigns about animals in captivity and the ill treatment of animals. Where is the similar campaign for helping trapped humans? Those who are involved in prostitution face a potentially dangerous situation. More than half the prostitutes involved in one study said that they had feared for their life at least once. I cannot think of any other group of people in this country who we would permit to live in such a state of terror and abuse, and without any end in sight.

Strict liability is the most hotly debated part of Clause 14. My noble and learned friend Lord Mackay of Clashfern is unable to be here, but he has particularly asked me to refer to his view that the new offence will be useless without the strict liability element. I am convinced that he is right.

Better minds than mine will battle with this, but I should like to make one point. If this clause remains in the Bill and becomes law, it will send a very strong signal that men must avoid any coercion of the vulnerable. I admit that I would much prefer an outright ban on prostitution, but I realise that it is neither possible nor probable now. However, by agreeing to Clause 14, we would take a mighty first step in declaring that we are a humane society, we believe in human rights, we wish to protect the vulnerable and we particularly wish to protect children from being blighted for life. We must declare that we are a caring and loving society, and then show that we are. I reject the amendments to Clause 14.

Baroness Stern: My Lords, I support the amendment moved by the noble Baroness, Lady Miller. In a perfect world perhaps there would be no social evils. There would be no drug addiction, no violence, no alcoholism and no prostitution—maybe. But in the mean time, we have to live in a less than perfect world and deal as best we can with real life.

In real life, some women and men are engaged in prostitution. That is the way in which they make their living. We may judge or we may not judge, but this is what they do. The question that we should ask is how

that fact can best be managed by the local authorities in the areas where it occurs and by the police to ensure certain protection.

We should try to ensure that no under-age people are involved; we should ensure that no people are brought in, perhaps from foreign countries, and are working against their will; and we should try to ensure that those involved are protected from violence and the health risks that their work brings. Surely the right policy approach should be to reduce the harm and to ensure that neighbourhoods are not made unpleasant for their residents.

Surely we do not want prostitution pushed underground and women being in such fear that they dare not speak. The evidence suggests that it is often clients of prostitutes who inform the police when they suspect that someone has been trafficked. We need to ensure the availability of routes out of prostitution for that large number of people who it has been alleged seek a way out—and I am sure that a large number would like a different way of life. We need to try to ensure maintenance of good relationships with the local police, so they can get information and intelligence on criminal activity, violent customers and the crime that surrounds the work about which we are talking.

That is why these criminalising measures are opposed by, for example, the UK Network of Sex Work Projects, which goes into the real world and works with people in prostitution to help them find a way out and a different way of life. It is enormously difficult work, and many dedicated people are doing it. The measures are opposed also by the Royal College of Nursing, because they will do nothing to ensure that women are able to go to health services or approach the people who bring vans on to the street carrying doctors and nurses who work at night to offer health testing.

I assure the noble Baronesses, Lady Howarth and Lady O’Cathain, that many people who support the amendments are as concerned as they are about the girls from care who end up on the street. They are concerned about the people with learning difficulties and the vulnerable who are dragged into this work. They are concerned about the people who have been abused as children and find that this is all that life seems to offer them. They are concerned about those who are drug-addicted and need money to feed their habit. We are not divided not in our concern for these people, but in how we see them best helped. There is no evidence that the law helped those people in their childhood when they were abused. The law is too blunt an instrument to deal with these sorts of social problems. I hope that the House will think carefully before rejecting the amendments.

Baroness Howe of Idlicote: My Lords, I shall be brief. I have listened with great attention. The desires of everybody who has spoken are evident. I commend particularly the Government for the attention that they have given to this matter. It is clear that it has not been an easy part of the Bill to work through and develop in a way that could provide an effective remedy. They have listened to a great deal of what has been said.

However, like my noble friend Lady Stern, I am afraid that there are equal numbers on the other side who feel, alas, that this is not the way to solve the

[BARONESS HOWE OF IDLICOTE]

problem. Perhaps I may say also that it is a big mistake on the part of the Government to debate such a crucial issue at this time of night. Here we are with a limited House considering an issue that lies at the basis of our humanity. I gather that a letter was sent by the noble and learned Baroness, Lady Scotland, on 2 November, but I have to say that few of us have had it. Noble Lords were also involved in the debates on this issue in Committee, and it worried us deeply then.

Is criminalisation going to help? That is the basic question. I remain unconvinced that the different way that we have had explained to us and which is to be applied to those who commit this offence is going to work. I am worried that not only will the whole situation continue, but we may well find that the provisions have the opposite effect.

Lord Skelmersdale: My Lords, it is a temptation for someone who, I suspect, is speaking last before the Minister in a debate such as this to take on the arguments with which I disagree. I am going to reject that temptation, which many noble Lords will be glad of. The Government made some good progress on these clauses while the Bill passed through another place and listened to concerns about the drafting of the definition of “coercion”. However, I have been both surprised and disappointed that they continue to maintain their position on strict liability, as I suspect they will do again tonight. I will, therefore, support the noble Baroness, Lady Miller, in her amendments within this group to remove the strict liability aspect of the new offence, as my noble friend Lady Hanham did in Committee.

Underlying this debate is the fact that all noble Lords in this House understand fully the Government’s desire and society’s need to act against trafficking and forced prostitution. My noble friend Lady O’Cathain was absolutely spot on in making that point. This horrific trade in humans must be stopped and I would fully support any measure that would improve the chances of prosecuting those who knowingly—I underline the word—pay for sex with a coerced woman.

My noble friend Lord McColl and the most reverend Primate made in part the same point, which is that the man concerned in the transaction must assure himself that he is not about to pay for sex with a trafficked or exploited woman. How easy it is to say, but how difficult to achieve. If someone asks a prostitute whether she has been trafficked, the inevitable answer will be “No”. If she is being exploited, the inevitable answer will be “No”, because otherwise the pimp or whoever will come down on her like a ton of bricks and the woman will be even more frightened than she is already.

I side with those who do not believe that the offence as drafted in the Bill would achieve the objective that we all want to see. Also, I do not believe that it would lead to a cultural shift among men who frequent prostitutes, as the Minister appears to believe that it would. In Committee, he argued that these amendments would allow men to get away with the sort of behaviour that we all want to stop because they could say that they did not know the circumstances of the prostitute. However, this argument has been challenged again

tonight by many noble Lords far more learned in the law than I am, and I am glad that we have heard from them.

We are about to hear what the Minister has to say. I suspect, as I said earlier, that he will maintain that this absolute offence of strict liability will do the job. I am afraid to tell him that, from my point of view, it will not.

10.45 pm

The Attorney-General (Baroness Scotland of Asthal):

My Lords, as you will see, I rise to reply to the amendments on behalf of the Government. I say to all noble Lords who have contributed that the debate has done the House justice on this very important amendment.

Noble Lords will not be surprised that I agree, without reservation, with all of those who support the Government’s case—the noble Lords, Lord McColl and Lord Morrow, the most reverend Primate the Archbishop of York, the noble Baronesses, Lady Howarth and Lady O’Cathain, and, through her, the noble and learned Lord, Lord Mackay, who is absolutely right in his assessment that without strict liability this offence will be meaningless. I of course take great note of what the noble Lord, Lord Skelmersdale, says, but I prefer the view of the noble and learned Lord, Lord Mackay of Clashfern.

I understand the reservations of the noble Baroness, Lady Miller, the noble Lords, Lord Pannick and Lord Thomas of Gresford, and the noble Baronesses, Lady Stern and Lady Howe. However, although there were many powerful speeches in support of the Government’s case, one of the most poignant came from the noble Baroness, Lady Howarth, who had the privilege—it must have been a privilege—of hearing directly from the women who suffer and about whom we speak. We should not cloak ourselves in the impression that what we are talking about are the civil liberties of the purchaser. What we are talking about is the abuse, degradation, humiliation and pain caused to women who engage in this activity, not because they desire it but because they are compelled, coerced and manacled in a way that no human being should be. The pain described by the noble Baroness, Lady Howarth, and which was referred to poignantly by the noble Lords, Lord McColl and Lord Morrow, and the most reverend Primate the Archbishop of York, is very real indeed.

We are faced with a choice tonight: do we speak for the victims, do we stand up for those who have no voice for themselves, do we stand in the breach for them—or do we provide a cloak of anonymity and protection for those who do not wish to face what they do when they purchase sex from a woman or a man, quite often of tender years, who has been coerced or forced into that position? With great respect to the noble Lord, Lord Pannick, who knows that I hold him in the highest esteem and affection, we should not cloak ourselves with nice legal arguments about secondary or primary participants. I need to be clear that the Government’s view is that those who purchase sex from people in that position commit a wrong. They enable a situation that is avoidable to continue. We have a choice tonight to decide on which stand we will set our mark. Who will we support, and who will we defend?

The Government do not hesitate in saying that we hope that this offence will have a “chilling effect” on those who buy sex from the vulnerable and the weak and from people who they do not know—on each person who buys sexual favours for money from a prostitute, be they male or female. If the consequence of this amendment would be to deprive us of an opportunity to protect people, then our position is that that would be very wrong.

I pay tribute to the noble Baroness, Lady Miller, because I know that her intention is to help to protect those who are vulnerable. We are not apart in that, but she is right that there are different views about how we should do it. She knows that when we embarked on the consultation process, we did so openly. There was no limit to what we were willing to consider. We looked hard at the issue, and over the summer we considered all the things that we had heard. However, there is evidence and then there is something else—it is called judgment.

We have to make a judgment about what is best. It is the Government’s judgment that we need to draw a line in the sand and say to individuals, “If you wish to purchase sex from an individual, you can—there is no impediment to you doing that—but you have to be sure from whom you are purchasing. You have to be sure that that person isn’t coerced, that they are of the right age and that you are not in fact engaging in sexual abuse. If you are not sure, then maybe you should buy from someone else”.

Lord Thomas of Gresford: Does the Minister agree that if the person is in the category of being coerced, even if the customer, to use that expression, is sure by reason of all the inquiries that he has made, he is still committing a criminal offence?

Baroness Scotland of Asthal: The noble Lord uses the issue of whether someone is sure. The noble Lord knows as well as I do that those who find themselves acting as prostitutes are often some of the most vulnerable and delicate people there are. If, after making an inquiry, from the observation that they have of the individual and the circumstances in which that individual is found, a person can be sure that that individual is not being coerced, then that is a matter for them. I hear the noble Lord’s point, though, that that person cannot be sure. If he cannot be sure, maybe he should buy from somewhere else.

There are many noble Lords here tonight. I heard what the noble Baroness, Lady Howe, said about the timing of this debate. It has always been the privilege of the Government not to have any control at all over timing—it is one of the joys of the House of Lords. As a result, the timing is that dictated by the House, and there are enough noble Lords here tonight to do us justice. We have a decision to make for which we will be held to account by victims and those who look to us for succour. I invite the House to reject these amendments and to vote for those who are at risk.

Baroness Miller of Chilthorne Domer: My Lords, if there was one justification for tabling these amendments, it has been the quality of the debate tonight. If there was one reason to hold the debate, the noble Baroness, Lady O’Cathain, expressed it. It has made us all learn a great deal more about a way of life that mostly goes unseen, un-noted and undebated by this House. So in no way do I regret tabling the amendments.

We have learnt a great deal more this evening. We have heard both the perfect world solution and what the noble Baroness, Lady Stern, referred to as the imperfect world solution. I hope that the noble and learned Baroness, Lady Scotland, will follow through this debate with developing those routes out of prostitution. We have not yet debated the next clauses in this part, but they do not look as though they try to develop routes out as much as criminalising the women, forcing them into rehabilitation, developing problems for them when they do not comply with the orders, closing down brothels and so on. That part of the Bill gives a very negative feeling to what the Minister gave a very positive view of this evening—and I hope that the Government return to that more positive feeling that she expressed in summing up.

I shall not enter into the lion’s den again of the legal arguments expressed by the noble Lord, Lord Pannick, and my noble friend Lord Thomas of Gresford. It is clear that there are immense problems around this. If the Government have their way and this goes forward unamended, we will be back here debating whether it is proving workable and whether there is a better solution. Tonight, the right thing to do will be to allow this experiment—and it is an experiment—to go forward. We will not continue to oppose the Government in this, but I plead with them to develop a far more positive attitude to the other clauses in the Bill and not leave us with a negative feeling when we debate those clauses, starting with the very next clause, which leaves the under-18s criminalised. The noble Baroness, Lady Howarth, made a very powerful speech, but she must remember that the negative point with which this Bill starts is that it leaves children under 18 as criminals. They are still criminalised; they should be seen by the law as victims and not criminals, as the Government wish to leave them in this Bill.

We will not oppose this clause tonight. The debate has stiffened our resolve to keep a very close eye on this issue. I beg leave to withdraw the amendment.

Some Lords objected to the request for leave to withdraw the amendment, so it was not granted.

The Chairman decided on a show of voices that Amendment 20 was disagreed.

Consideration on Report adjourned.

House adjourned at 10.59 pm.

Written Statements

Tuesday 3 November 2009

Correction to Commons Oral Answer Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My right honourable friend the Secretary of State for Work and Pensions (Yvette Cooper) has made the following Written Ministerial Statement.

During Department for Work and Pensions Oral Questions on Monday 19 October, in response to a supplementary from the honourable Member for Blackpool, North and Fleetwood (Joan Humble), I said that:

“My honourable friend is right, and we must ensure that we also help young people who have different disabilities and need additional help with different ways into work. She may also be interested to know that the proportion of disabled people in work has increased by about 7 per cent, to more than 50 per cent, in the past eight years, so for the first time there are more disabled people of working age in work than there are out of work—precisely because of the kind of programme that my honourable friend talks about”. (*Official Report*, col. 630).

The correct Answer is as follows:

“My honourable friend is right, and we must ensure that we also help young people who have different disabilities and need additional help with different ways into work. She may also be interested to know that the proportion of disabled people in work is now 47.5 per cent compared with 42 per cent 10 years ago and over half of working age disabled people are now in work or claim to be actively seeking employment—precisely because of the kind of programme that my honourable friend talks about”.

I apologise to the honourable Lady for these inadvertent errors.

Courts: Northern Ireland Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My right honourable friend the Secretary of State for Justice and Lord Chancellor (Jack Straw) has made the following Written Ministerial Statement.

The Northern Ireland Court Service Main Estimate for 2009-10 includes £64.5 million in respect of legal aid, intended to enable the Northern Ireland Legal Services Commission (NILSC) to discharge legal costs and meet its administration costs during 2009-10. Expenditure on legal aid in 2009-10 is forecast significantly to exceed existing provision because the NILSC is dealing with a high volume of very high cost criminal cases and a higher level of civil and criminal business.

Accordingly, parliamentary approval for additional resources of £20,000,000 will be sought in a Winter Supplementary Estimate for the Northern Ireland Court Service. Pending that approval, urgent expenditure estimated at £20,000,000 is being met by a repayable cash advance from the Contingencies Fund. The additional resources will enable the NILSC to discharge its statutory obligation to meet bills within the provision available to it.

Arrangements have been put in place to ensure that very high cost cases are paid in a timely manner. There is a programme of reform aimed at reducing the cost of criminal legal aid and deliver reform to civil legal aid which will control cost and target funding on priority cases.

EU: General Affairs and External Relations Council Statement

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): My honourable friend the Minister for Europe (Chris Bryant) has made the following Written Ministerial Statement.

The General Affairs and External Relations Council (GAERC) was held on 26 and 27 October in Luxembourg. My right honourable friend the Foreign Secretary and I represented the UK.

The agenda items covered were as follows:

General Affairs

The full text of conclusions adopted, including “A” points, can be found at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/110776.pdf.

Preparation of the 29 and 30 October European Council

The October European Council agenda covered economic and financial issues, climate change and institutional issues.

On economic and financial issues, my right honourable friend the Foreign Secretary strongly supported the need for the European Council to deliver a message on jobs and growth.

On climate change, my right honourable friend the Foreign Secretary noted that, with Copenhagen only 40 days away, we needed to agree a strong EU position to maintain the international momentum in negotiations. In particular, we needed to give a credible range of figures on global public finance.

On institutional issues, the presidency and the Czech Republic briefed Ministers on the latest developments concerning the Lisbon treaty. My right honourable friend the Foreign Secretary noted that we were broadly content with the substance of the presidency’s Lisbon treaty implementation report, but he stressed two points: first, that Governments needed time to consult their national parliaments on some of the decisions which would need to be taken to implement the Lisbon treaty; and secondly, that it must be clear, for the avoidance of doubt, that the UK and Ireland’s justice and home affairs opt-in protocol would apply both to old Third Pillar measures being re-presented as First Pillar measures, and to the decision on the establishment of the Committee on Internal Security (COSI). Ministers also broadly agreed guidelines for the European External Action Service (EAS) for approval at the European Council, but noted that full details of the EAS would be provided by the high representative for consultation once the treaty had entered into force.

Baltic Sea Strategy

Ministers adopted conclusions endorsing an EU strategy for the Baltic Sea region, which the Government supports.

AOB: Climate change

The presidency briefed Ministers on the use of EU demarches to lobby 115 countries on climate change ahead of the UN climate change conference in Copenhagen. The issue would also be discussed at EU summits with third countries, including those with the US, China and India, in the run-up to Copenhagen. My right honourable friend the Foreign Secretary supported these efforts and highlighted the publication in the UK of the 4 degree map, which looks at the implications across the board of a 4 degree temperature rise. It showed that climate change was a foreign policy issue with serious implications, including for security.

External Relations

The full text of all conclusions adopted can be found at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/110805.pdf.

Iran

High Representative Solana briefed Ministers on latest developments on the nuclear issue. My right honourable friend the Foreign Secretary, with support from several member states, said that the EU needed to be ready to take action. He also gave an update on the detention and trial of a local member of British embassy staff.

Western Balkans

The presidency briefed Ministers on the joint EU-US initiative to make progress on blocked reform priorities in Bosnia and Herzegovina. The Government fully support this initiative.

Afghanistan/Pakistan

The presidency introduced an action plan for enhancing EU engagement in Afghanistan and Pakistan, which all Ministers welcomed. The Commission welcomed President Karzai's agreement to the second round of elections, which has since been cancelled. It hoped that the EU election observation mission (EOM) would have at least 100 observers and 150 support staff, but would welcome support locally.

The presidency and High Representative Solana both stressed the importance of getting the EUPOL police training mission up to full strength. The presidency challenged member states to increase their contribution before the next council.

I underscored the importance of a unified EU and broader international effort, going well beyond military engagement alone. The new EU strategy was robust but it needed firm action and resources behind it. I welcomed the Commission's decision to organise the EOM for the second round; underscored the importance of a strong EU presence and offered UK support; and announced that the UK would deploy four more policemen to EUPOL from January 2010. I also offered the UK's support to Spain in its preparations for the next EU-Pakistan summit in 2010.

Ministers adopted conclusions that welcomed the decision of the Independent Election Commission (IEC) to hold a second round in the presidential elections; committed to redeploying the EOM to observe the second round; expressed concern about the security situation in Pakistan, while supporting the Government

in their fight against terrorism; set out the main aspects of the EU action plan; and called for implementation of the plan without delay.

Middle East Peace Process

The presidency and High Representative Solana introduced a discussion of the MEPP which highlighted the importance of launching negotiations between the parties and the need for the EU to remain focused on its contribution to implementation of a future peace agreement.

Sri Lanka

The presidency and Commission expressed concern over the serious humanitarian situation. Member states shared this concern. I noted that while there had been some progress with increased numbers leaving the camps recently this needed to be sustained. Member states also expressed concern about the human rights situation in general, including freedom of the media.

The conclusions reflected these concerns and called on the Government of Sri Lanka to allow internally displaced persons to return to their homes as soon as possible and to allow improved access for humanitarian agencies.

AOB: Moldova

The presidency reported on the 15 and 16 October troika meeting with Moldova. Several member states supported a package of EU measures to the new Moldovan Government: financial assistance, pushing ahead with a dialogue on visas, moving ahead with negotiations on a deeper association agreement and a deep free trade deal. The Commission said that it was looking at macrofinancial assistance. The presidency concluded by welcoming these ideas. The Government support an ambitious programme of EU engagement and assistance with the new Government.

AOB: Somalia

This item was dropped from the agenda.

AOB: Freedom of Religion

Italy called for the EU to take a more consistent and active role in protecting religious freedom, and requested conclusions at the November GAERC. The presidency undertook to consider the request and revert.

EU-Indonesia

In the margins of the council my right honourable friend the Foreign Secretary signed an EU partnership and co-operation agreement with Indonesia.

"A" Points

The council adopted conclusions or decisions, without discussion, on:

approval for signing the EU-Syria association agreement,

Uzbekistan: focused on human rights, but lifting the remaining EU sanctions (an arms embargo);

Guinea: imposing an arms embargo and travel ban on regime members in Conakry;

Great Lakes: focusing on humanitarian situation in the East;

Sahel: setting the EU's intention to develop a new strategy;

Yemen: adopting an EU action plan; and Human rights dialogue with Indonesia.

Migrant Workers: Bulgaria and Romania

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My honourable friend the Minister of State for Borders and Immigration (Phil Woolas) has today made the following Written Ministerial Statement.

I am today confirming that the restrictions on working in the United Kingdom currently applied to Bulgarian and Romanian nationals will continue until the end of 2011.

I announced on 18 December 2008 that these restrictions would remain in place subject to a review of the position by the end of 2009. I have re-examined the case for continuing those restrictions. The Government remain committed to the principle of free movement of workers within the European Union and acknowledge the benefits that intra-EU migration brings to the UK both as an exporter of British workers to other member states and as a result of the role of migration from other member states in meeting labour shortages in important sectors of the UK's economy.

However, the Government have chosen a gradual approach to Bulgarian and Romanian workers' access to the UK's labour market. Given the current labour market situation, it is important that we continue to give weight to the need to protect the interests of the resident workforce. In March of this year, we accordingly tightened resident labour market testing requirements for non-EEA workers seeking admission under tier 2, and the entry criteria for those coming under tier 1, of the points-based system. I have concluded that, in the

light of these considerations, the current restrictions applied to Bulgarian and Romanian workers should continue.

The annual quota for the seasonal agricultural workers scheme (SAWS) will remain at 21,250 places for 2010 and 2011 and the annual quota for the sectors based scheme (SBS) for the food processing sector will remain at an annual level of 3,500 places for 2010 and 2011. I will refer the question of the quota level for the SAWS to the Migration Advisory Committee if evidence emerges to suggest that it is inappropriate.

The current restrictions may be extended for a further two years beyond the end of 2011 on the basis of serious labour market disturbance. Any decision to extend the restrictions will be informed by a further evidence-based review of the position.

Taxation: Information Exchange Agreements

Statement

The Financial Services Secretary to the Treasury (Lord Myners): My right honourable friend the Financial Secretary to the Treasury (Stephen Timms) has made the following Written Ministerial Statement.

A tax information exchange agreement (TIEA) was signed with the Commonwealth of the Bahamas in Nassau on 29 October 2009.

The text of the TIEA has been deposited in the Libraries of both Houses and made available on HM Revenue and Customs' website. The text will be scheduled to a draft Order in Council and laid before the House of Commons in due course.

Written Answers

Tuesday 3 November 2009

Armed Forces: Marital Status

Questions

Asked by *Lord Lee of Trafford*

To ask Her Majesty's Government what percentage of serving military personnel in (a) the Army, (b) the Royal Navy, and (c) the Royal Air Force, are (1) single, (2) married without children, (3) married with children, (4) divorced without children, and (5) divorced with children. [HL5779]

To ask Her Majesty's Government how many members of (a) the Army, (b) the Royal Navy, and (c) the Royal Air Force have changed from married status into marital category (1) decree absolute, (2) separated, and (3) annulled, in each year since 2000; what proportion of each service's strength this represents in each year; and what proportion of each service's married strength this represents in each year. [HL5780]

The Minister for International Defence and Security (Baroness Taylor of Bolton): This information is not held in the format requested.

Following the phased introduction of joint personnel administration, marital category data are no longer available. Personal marital status is recorded in order to determine entitlement to allowances and service families accommodation. These status categories are:

PStat Cat 1—a legally married member of the services or a member of the services who has registered a civil partnership;

PStat Cat 2—a member of the services who has parental responsibility in terms of the Children Act for a child(ren) and is regarded as the centre and prime mover in the life of the child(ren), provides a home where they normally live with the child(ren), accepts financial responsibility for the child(ren) and where the child is unable to care for itself, provides a carer, who is not the natural parent of the child(ren) during absences attributable to service life;

PStat Cat 3—a member of the services not in PStat Cat 1 or 2 and provides financial support to their former spouse/partner by way of a voluntary agreement;

PStat Cat 4—a member of the services not in PStat Cat 1 or 2 and provides financial support to their former spouse/partner by way of a court order; and

PStat Cat 5—all other members of the services.

The following table provides a breakdown into which personal status category Armed Forces personnel have declared themselves belonging to on their service record:

Personal Status Category	Army		RAF		Navy	
	Male	Female	Male	Female	Male	Female
1	21.67%	1.20%	9.76%	0.93%	7.18%	0.38%
2	0.29%	0.26%	0.18%	0.18%	0.09%	0.07%
3	1.88%	0.05%	0.74%	0.01%	0.63%	0.01%
4	0.16%	0.00%	0.04%	0.00%	0.06%	0.00%
5	28.91%	2.79%	8.41%	1.90%	9.58%	1.40%
None recorded	0.32%	0.03%	0.44%	0.10%	0.27%	0.08%
Totals	53.24%	4.33%	19.55%	3.12%	17.81%	1.94%

Joint personnel administration has for the first time allowed service personnel to take responsibility for their own administration. All service personnel are encouraged to notify the service authorities if a child, for which they have responsibility, begins to live with them. However, this is not always done, particularly if they do not reside in service accommodation or the notification of such information does not generate an entitlement to a particular allowance.

As a result data that could be provided for children against specific personal status categories do not give an accurate representation of the numbers of children for which our service personnel have responsibility.

Information relating to marital categories on legacy personnel systems could be obtained only at disproportionate costs.

Armed Forces: Marriage Counselling

Question

Asked by *Lord Lee of Trafford*

To ask Her Majesty's Government what marriage counselling and support is available to (a) Armed Forces personnel and their families, and (b) Armed Forces personnel serving in theatre. [HL5781]

The Minister for International Defence and Security (Baroness Taylor of Bolton): Support for non-deployed Armed Forces personnel and families is available through comprehensive individual service welfare resources, which offer varying degrees of relationship counselling and also direct people to professional advice services such as Relate or local counselling services overseas.

Provision of appropriate pastoral care in theatre is a fundamental command responsibility and commanders take their duties in this regard seriously. While there is no bespoke marriage counselling service in operational theatres those providing support and advice from the chain of command will be able to signpost individuals in need of particular assistance to where that assistance may be found. There are currently 13 chaplains deployed to Afghanistan as well as a number of mental health professionals, all of whom can provide advice as required. If a commander becomes aware that there is specific marital issue the unit rear party can be advised in order to assist the family at home. In particularly serious cases, commanders have the discretion to grant compassionate leave to send a service person home in order to assist in resolving marital difficulties, but any such decision has to be balanced against operational imperatives.

Ascension Island

Question

Asked by **Lord Jones of Cheltenham**

To ask Her Majesty's Government what is their response to comments made on the Today programme on 17 September, by Harold Peters, an Ascension Island councillor, concerning an alleged shortfall in the island's tax revenue due to the Royal Air Force paying £497,000 rather than the £1 million that is believed to have been due each year since 2002.

[HL5845]

The Minister for International Defence and Security (Baroness Taylor of Bolton): The decision by the Ascension Island Government to remove a variation in the Ministry of Defence's annual property tax liability, which had the effect of almost doubling the amount, is currently being disputed. The MoD, therefore, has not paid this new tax liability in full.

Discussions are ongoing in order to seek an agreement that is fair and equitable, and assurance that the services received from the Ascension Island Government represent best value for money. The Ascension Island Council has commissioned an HMRC-led study, supported by the Foreign and Commonwealth Office, into tax arrangements on Ascension Island. The Ministry of Defence is being consulted as part of this study.

Bats

Question

Asked by **Lord Berkeley**

To ask Her Majesty's Government under what legislation and in what circumstances developers are required to make provision for bats to cross roads, railways or other infrastructure. [HL5970]

The Secretary of State for Transport (Lord Adonis): Bats are protected under the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended)¹, and the Wildlife and Countryside Act 1981 (as amended)². It is an offence to injure or kill a bat, or significantly to disturb bats. Derogations may be granted through licence from Natural England where proposals will not be detrimental to the favourable conservation status of the species.

Public authorities also have a duty under the Natural Environment and Rural Communities Act (2006)³ to have regard for the conservation of biodiversity in exercising their functions.

¹ Part III (39) Conservation (Natural Habitats, & c.) Regulations 1994 (as amended)

² Part I (9) Wildlife and Countryside Act 1981 (as amended)

³ Part 3 (40)(1) Natural Environment and Rural Communities Act (2006)

Belfast Agreement

Question

Asked by **Lord Laird**

To ask Her Majesty's Government with regard to section 3 of the declaration of support in the Belfast agreement of 1998, what are the definitions of equality, partnership and mutual respect governing

relationships between Northern Ireland and the Republic of Ireland and between the United Kingdom and the Republic of Ireland. [HL5939]

Baroness Royall of Blaisdon: The concepts of equality, partnership and mutual respect are not defined specifically in the context of the Belfast agreement.

Broadcasting: Equality

Question

Asked by **Lord Dholakia**

To ask Her Majesty's Government whether they will ask the Equality and Human Rights Commission to investigate the BBC in relation to the discharge of its public duty responsibilities under the Race Relations Act 1976 and the Equality Act 2006; and whether they will ask the commission to investigate the BBC under those Acts in respect of its decision to invite the British National Party to participate in Question Time on 22 October. [HL6016]

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): The Equality and Human Rights Commission operates at arm's length from Government and makes its own independent decisions as to whom it investigates and on what grounds.

Census

Question

Asked by **Lord Laird**

To ask Her Majesty's Government further to the Written Answer by Baroness Crawley on 13 July (WA 183-4), why providing options for Christian denominations in the 2011 census would not enable comparability with the 2001 census figures; what duties in relation to religious affiliation need to be fulfilled by public authorities under the Race Relations Act 1976; what are the extra Welsh religious categories that would be required were there a question on Christian denominations; whether religions other than Christianity have difficulty with their single question; and what form of equality monitoring and service planning users of census statistics undertake in relation to Christians and Buddhists. [HL5953]

Baroness Crawley: The information requested falls within the responsibility of the UK Statistics Authority. I have asked the authority to reply.

Letter from Jil Matheson, National Statistician, to Lord Laird, dated October 2009.

Further to my predecessor's letter to you of 14 July, as the new National Statistician I have been asked to reply to your recent Parliamentary questions asking i) why providing options for Christian denominations in the 2011 Census would not enable comparability with the 2001 Census figures; ii) what duties in relation to religious affiliation need to be fulfilled by public authorities under the Race Relations Act 1976; iii) what are the extra Welsh religious categories that would be required were there a question on Christian denominations; iv) whether religions other than Christianity have difficulty with their single question; and v) what form of equality

monitoring and service planning users of Census statistics undertake in relation to Christians and Buddhists. (HL5953)

i) An expanded religion question would be likely to affect comparability with the 2001 Census data due to the different way that the question may be interpreted and answered. Testing of a religion question with expanded Christian denominations showed that some people thought of the new question in terms of religious practice rather than religious affiliation (which is the concept we are trying to measure) because of the specific tick-boxes for denominations, and there was evidence that some people chose 'No religion' when they would otherwise have picked 'Christian'.

In addition, if detailed Christian options were provided the lack of space on the questionnaire would require a double-banked format of the question where tick-boxes were listed side by side in two columns rather than in a longer list. Such questions are normally avoided where possible because the tick-boxes on the right, in this case the Christian denominations, frequently get missed by respondents. However, encouraging respondents to notice the Christian breakdown boxes could have the unintended effect of drawing respondents' attention away from the remaining religion tick-boxes and making them less visible. This could lead to incomplete and incorrect data and a possible undercount for the remaining religions.

These and other concerns about including an expanded religion question are set out in an information paper which details the religion question development which led to the final recommendations for the 2011 Census. This is available on the website:

<http://www.ons.gov.uk/census/2011-census/2011-census-questionnaire-content/question-and-content-recommendations-for-2011/index.html>.

ii) Respondents to the Office for National Statistics 2007 consultation on user requirements for information on ethnicity, identity, language and religion from the 2011 Census emphasised the use of religion data to enable better understanding of the social and economic position of different religious and ethnic groups, and to help to identify cases of social exclusion. This information would be used to inform policy development and monitoring and enable public bodies to meet their statutory obligations under the Race Relations Act and other equality legislation. The Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000) (the Act) gives public authorities a general duty to promote race equality. The duty means that, in everything they do, public authorities should aim to:

- eliminate unlawful racial discrimination;
- promote equality of opportunity; and
- promote good relations between people of different racial groups.

The Act gives public authorities a general duty to monitor policy and service delivery for different ethnic groups. Definitions of what constitutes an "ethnic group" are subject to much discussion. This is because membership of any ethnic group is something that is subjectively meaningful to the person concerned, and

can be based upon a combination of categories such as country of birth, nationality, language, skin colour, national/geographical origin, racial group and religion.

Although the ethnic group question was designed to capture information relevant to the Race Relations Act including colour and ethnic and national origins other concepts or groups relevant to this Act and other pieces of legislation may be captured more easily with other questions creating a suite of ethnicity questions including country of birth, citizenship, national identity, religion and language. For this reason, when prioritising groups for inclusion as new categories in the ethnic group question we considered whether one or more other Census questions provided similar information to an ethnic group tick-box, (in which case there would be less need to include this tick-box in the ethnic group question).

For some ethnic minorities, religion is one of the important defining characteristics and for this reason a question on religion was first included on the 2001 Census. Since the 2001 Census a number of laws to protect religious freedom have been passed, including the freedom to have no religion or belief. The Employment Equality (Religion and Belief) Act 2003 places a duty on all local authorities to monitor employment practices and to address the needs of religious groups. Other laws include the Racial and Religious Hatred Act 2006 and the Equality Act 2006. One of the main needs for religion data expressed by users was to assist legal obligations to prevent discrimination and promote equality.

iii) The different Christian categories which would be required in Wales were there an expanded religion question have not been ascertained from Census users. However they are likely to include non-conformist chapels such as Presbyterians, Independents, Baptists and Methodists since, in Wales, their memberships are higher than those of the Anglican or Catholic Churches.

iv) Some Census users expressed a requirement for information that would break down the Muslim category but there is no evidence of difficulty with a single category for religions other than Christianity.

v) It is not possible to comment on what form of equality monitoring and service planning that users of Census statistics may undertake in relation to Christian and Buddhists—respondents to our consultations generally articulated their need for religion data in general rather than with reference to specific groups. In addition to meeting legal obligations, users emphasised the use of data on religion to enable better understanding of the social and economic position of different religious and ethnic groups, to help identify cases of social exclusion, and to aid decisions relating to the provision of services in areas such as health, housing and education.

Climate Change: Carbon Dioxide Emissions

Question

Asked by Lord Lea of Crondall

To ask Her Majesty's Government whether they will ask the Office for National Statistics to produce a time series of the statistical relationship between gross domestic product growth and emissions of carbon dioxide.

[HL6080]

Baroness Crawley: The information requested falls within the responsibility of the UK Statistics Authority. I have asked the authority to reply.

Letter from Jil Matheson, National Statistician, to Lord Lea of Crondall, dated November 2009.

As National Statistician, I have been asked to reply to your Parliamentary Question asking for a time series of the statistical relationship between gross domestic product growth and emissions of carbon dioxide (HL6080).

ONS Environmental Accounts produce estimates of air emissions, including carbon dioxide annually.

The ONS Environmental Accounts measure greenhouse gas emissions on a UK resident basis, in order to be comparable with National Accounts economic data. Therefore, they include emissions generated by UK residents in the UK and emissions from UK residents' transport and travel activities abroad. They exclude emissions generated by non-residents' transport and travel in the UK.

As such, these data are on a different basis from estimates published by the Department for Energy and Climate Change under the UK's Kyoto Protocol obligations. The Kyoto Protocol basis covers emissions from UK territory only and excludes emissions from international aviation and shipping.

The most recent publication was on 12 June 2009 and statistics for the period 1990 - 2007 are available on the National Statistics website at the following address.

<http://www.statistics.gov.uk/focuson/environmental/>

Consistent with this publication, the annex presents an index of carbon dioxide emissions created per unit of output by the UK economy (excluding households) between 1990 and 2007.

Annex

Index of carbon dioxide emissions created per unit of output by the UK economy (excluding households) between 1990 and 2007

Year	Index of CO ₂ emissions per unit of output ¹ 1990=100
1990	100.0
1991	101.3
1992	98.4
1993	92.7
1994	87.3
1995	84.4
1996	84.3
1997	79.0
1998	76.8
1999	72.5
2000	71.5
2001	71.8
2002	68.3
2003	68.6
2004	67.2
2005	66.5
2006	63.7
2007	61.1

Source:

AEA Energy and Environment, Office for National Statistics

¹ Output is based on the chained volume measure of Gross Value Added, the contribution of individual industries to Gross Domestic Product.

Common Agricultural Policy: Single Farm Payment

Question

Asked by **Baroness Byford**

To ask Her Majesty's Government how many disputes there were over mapping between farmers and the Rural Payments Agency in relation to the single farm payment scheme in (a) 2007, and (b) 2008; and how many are unresolved. [HL5743]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): RPA does not hold information in a readily accessible manner on the number of changes to mapped areas that have been challenged by farmers and as a result have been changed. This information can be obtained only at disproportionate cost.

Compensation

Question

Asked by **Lord Laird**

To ask Her Majesty's Government further to the Written Answer by Lord Bach on 21 July (WA 312), whether they will consult the Northern Ireland Judicial Studies Board to seek a review of the current guidelines on the assessment of general damages in personal injury cases in Northern Ireland with a view to aligning them with England and Wales. [HL5957]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The assessment of general damages in personal injury cases in Northern Ireland is a matter for the independent judiciary. The guidelines are a matter for the Northern Ireland Judicial Studies Board, as the judicial-led body responsible for judicial training in Northern Ireland. The guidelines are already subject to regular review by the board and the Government have no plans to consult them in this regard.

Courts: Fees

Question

Asked by **Lord Lucas**

To ask Her Majesty's Government in what circumstances High Court Enforcement Officers are permitted to charge debtors who owe hundreds of pounds costs of several thousand pounds; and what assessment they have made of the impact of such costs. [HL5980]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The fees chargeable by a High Court enforcement officer are contained in Schedule 3 of the High Court Enforcement Officers Regulations 2004. The regulations provide for reasonable costs to be charged as the individual circumstances of the case dictate. Any such reasonable costs can be the subject

of detailed assessment upon application to the High Court. The Ministry of Justice is undertaking a detailed examination of the cost of High Court enforcement with the intention of setting a new fee structure with the implementation of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.

Cyprus: Peacekeeping Operations

Question

Asked by **Lord Kilclooney**

To ask Her Majesty's Government who paid for the United Kingdom contingent of the United Nations Peacekeeping Force in Cyprus in the latest year for which figures are available; and what was the United Kingdom's contribution. [HL5960]

The Minister for International Defence and Security (Baroness Taylor of Bolton): As at 27 October 2009 there were 288 personnel deployed on Operation TOSCA, the UK contribution to the United Nations Peacekeeping Force in Cyprus (UNFICYP). The cost for this deployment is charged to the tri-departmental (FCO, MoD and DfID) peacekeeping budget. In the financial year 2008-09 the cost was £16 million. The United Nations reimburses the UK £2.5 million for our contribution to UNFICYP.

Disabled People: Benefits

Question

Asked by **Lord Taylor of Holbeach**

To ask Her Majesty's Government with reference to the Green Paper *Shaping the Future of Care Together*, whether monies levied under a Government insurance scheme or a comprehensive scheme will be held in a fund earmarked for care and support, or whether they will be paid into HM Treasury in the same way as other revenue. [HL5949]

Baroness Thornton: Detailed decisions on how the funding options would work have not yet been taken.

Electoral Register

Question

Asked by **Lord Norton of Louth**

To ask Her Majesty's Government further to the Written Answer by Lord Bach on 14 July (*WA 198*), how they define "as soon as possible" for the purposes of holding a public consultation on the impact of removing the edited version of the electoral register. [HL5878]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The Government remain committed to holding a public consultation to establish how removing the provisions that govern the edited register would impact not just on individuals but the economy as a whole. The precise date of publication has not yet been finalised but it is our intention to do so shortly.

Embryology

Question

Asked by **Earl Howe**

To ask Her Majesty's Government further to the comments by Lord Darzi of Denham on 29 October 2008 (*Official Report*, House of Lords, col. 1624) and with reference to the articles in *Nature* (vol. 461) and *Cell Stem Cell* on 23 July 2009, whether, if chimaeric embryos were produced by combining human induced pluripotent stem cells and animal tetraploid embryos, they would be classified as "human admixed", rather than falling under the *Animals (Scientific Procedures) Act 1986*. [HL6020]

Baroness Thornton: The Human Fertilisation and Embryology Authority (HFEA) assesses all research licence applications for the production of embryos with both animal and human material and determines whether the proposed embryos fall within the definition of "human admixed embryo" (as outlined in Section 4A(6) of the Human Fertilisation and Embryology Act 1990 (as amended)). In the case of the chimaeric embryos described, the authority would assess whether or not animal deoxyribonucleic acid (DNA) is predominant, based upon the particular research proposed. In making this decision, the authority would bear in mind the House of Lords debate of 29 October 2008 (*Official Report*, House of Lords, col. 1624), in particular the assumption that "predominant" refers not only to the percentage of DNA but also to its location and functionality.

Equality and Human Rights Commission

Questions

Asked by **Lord Dholakia**

To ask Her Majesty's Government when the Equality and Human Rights Commission will publish its annual report and accounts for 2008-09. [HL6017]

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): The commission's annual report and accounts for 2008-09 is currently with the National Audit Office for clearance. Once this has been completed the commission will proceed with formal approval at its board meeting followed by publication.

Asked by **Lord Dholakia**

To ask Her Majesty's Government how much the Equality and Human Rights Commission will spend during the current financial year on interim staff and external consultants; how much of that would comprise overspending against its approved budget; and what are the reasons for any overspending. [HL6018]

Baroness Royall of Blaisdon: The commission's forecast spend on interim and agency staff in 2009-10 is £6.6 million. £1.8 million of this represents an increase over the initial budget because of increased cost of

interim staff who were employed to support the delivery of its strategic priorities. The forecast spend on consultants is £2.3 million. This includes advisory consultancy services, research and the provision of other services to the commission.

EU: Farming Support

Question

Asked by **Lord Vinson**

To ask Her Majesty's Government following the report of the National Audit Office saying that £620 million spent by the Department for Environment, Food and Rural Affairs and the Rural Payments Agency in administering European Union support to farmers was a "masterclass in mis-administration", what steps will they take to penalise those responsible and to prevent a recurrence. [HL5851]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): The issues raised in the NAO report reflect the legacies of the problems faced by the Rural Payments Agency (RPA) in implementing the single payment scheme (SPS) in 2005. Ministers have apologised to the House for those past issues. Subsequent improvement in RPA's performance has been evidenced by the significant speeding up of SPS payments to farmers. The successful negotiation and implementation of the new EU scheme rules arising from the CAP health check last year also signifies an increased capacity to manage change. But, as highlighted in the NAO report, costs are still too high and work to recover overpayments has been proved more difficult than anticipated. Those are some of the drivers for the current review of the RPA that the department announced in September which will seek to identify where the agency may be able to make further improvements and efficiencies in its activities.

Gypsies and Travellers

Question

Asked by **Baroness Whitaker**

To ask Her Majesty's Government what efforts the Black and Minority Ethnic Women Councillors' Taskforce has made to involve Gypsy and Traveller women; and with what success. [HL5858]

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): One of the key objectives of the Black, Asian and Minority Ethnic Women Councillors' Taskforce programme was to ensure that a diverse range of delegates from a wide range of backgrounds, experiences and communities were able to participate and attend the outreach awareness raising events. Overall 53 per cent of people who attended the BAME outreach events provided details about their ethnic background. Of those that responded, 4 per cent reported being from the "other ethnic group", and of these, two respondents (0.4 per cent) reported being from the Gypsy and Traveller community. We have no information on the ethnic background of the remainder of people who were at these events and did not complete a feedback form (47 per cent of attendees).

The outreach events were promoted widely and included engagement with the Department for Communities and Local Government as well as organisations and networks with links to the Gypsy and Traveller community such as Voice 4 Change and the Travellers Advocacy Service. Two women from the Gypsy and Traveller community who attended the Leicester outreach event were also invited to participate in the follow up evaluation which took place on Thursday 10 September 2009.

On two occasions the Government Equalities Office also approached a speaker from the Gypsy and Traveller community to speak at the outreach events, but she was unable to participate.

Health: Continuing Care

Questions

Asked by **Baroness Greengross**

To ask Her Majesty's Government how many people receive NHS continuing care in each primary care trust each year; and what proportion of the population of each primary care trust those figures represent. [HL6103]

Baroness Thornton: The requested information is provided in the following table.

Number receiving National Health Service continuing care in total and per 50,000 population, England Quarter 4, 2008-09

<i>Organisation name</i>	<i>Number</i>	<i>per 50,000 population</i>
England	46,599	45.8
Ashton, Leigh and Wigan PCT	537	89.0
Barking and Dagenham PCT	309	93.5
Barnet PCT	539	81.3
Barnsley PCT	143	30.9
Bassetlaw PCT	41	19.2
Bath and North East Somerset PCT	240	64.5
Bedfordshire PCT	246	29.9
Berkshire East PCT	238	31.0
Berkshire West PCT	223	24.5
Bexley Care Trust	430	102.0
Birmingham East and North PCT	267	33.5
Blackburn with Darwen PCT	68	22.5
Blackpool PCT	95	33.9
Bolton PCT	265	50.5
Bournemouth and Poole PCT	811	126.2
Bradford and Airedale PCT	623	62.6
Brent PCT	385	68.8
Brighton and Hove City PCT	188	36.3
Bristol PCT	323	37.7
Bromley PCT	238	39.2
Buckinghamshire PCT	423	42.6
Bury PCT	70	19.2

Number receiving National Health Service continuing care in total and per 50,000 population, England Quarter 4, 2008-09

Organisation name	Number	per 50,000 population
Calderdale PCT	254	63.4
Cambridgeshire PCT	672	58.2
Camden PCT	163	35.1
Central and Eastern Cheshire PCT	475	53.3
Central Lancashire PCT	280	31.9
City and Hackney PCT	189	42.9
Cornwall and Isles Of Scilly PCT	670	63.7
County Durham PCT	647	63.5
Coventry PCT	357	55.3
Croydon PCT	315	47.0
Cumbria PCT	166	16.5
Darlington PCT	165	84.0
Derby City PCT	329	60.7
Derbyshire County PCT	796	57.5
Devon PCT	771	52.6
Doncaster PCT	356	60.7
Dorset PCT	547	71.5
Dudley PCT	271	45.0
Ealing PCT	168	26.2
East and North Hertfordshire PCT	219	19.9
East Lancashire PCT	251	33.6
East Riding of Yorkshire PCT	136	22.3
East Sussex Downs and Weald PCT	261	39.9
Eastern and Coastal Kent PCT	423	29.5
Enfield PCT	185	34.5
Gateshead PCT	127	32.7
Gloucestershire PCT	416	35.9
Great Yarmouth and Waveney PCT	103	23.3
Greenwich PCT	133	28.9
Halton and St Helens PCT	610	100.3
Hammersmith and Fulham PCT	220	64.7
Hampshire PCT	2,205	89.2
Haringey PCT	250	52.0
Harrow PCT	200	50.4
Hartlepool PCT	102	56.0
Hastings and Rother PCT	87	25.4
Havering PCT	262	55.2
Heart of Birmingham PCT	83	14.7
Herefordshire PCT	256	73.2
Heywood, Middleton and Rochdale PCT	110	27.0
Hillingdon PCT	281	58.5
Hounslow PCT	160	36.2
Hull PCT	140	25.0
Isle Of Wight NHS PCT	281	101.8
Islington PCT	220	58.7
Kensington and Chelsea PCT	190	49.9

Number receiving National Health Service continuing care in total and per 50,000 population, England Quarter 4, 2008-09

Organisation name	Number	per 50,000 population
Kingston PCT	113	32.8
Kirklees PCT	324	41.3
Knowsley PCT	178	59.2
Lambeth PCT	368	63.5
Leeds PCT	906	59.1
Leicester City PCT	213	34.5
Leicestershire County and Rutland PCT	404	31.3
Lewisham PCT	283	55.0
Lincolnshire PCT	526	37.6
Liverpool PCT	707	79.6
Luton PCT	215	58.1
Manchester PCT	307	31.6
Medway PCT	154	29.0
Mid Essex PCT	174	24.4
Midleborough PCT	139	48.2
Milton Keynes PCT	79	17.0
Newcastle PCT	130	24.9
Newham PCT	232	45.6
Norfolk PCT	410	28.3
North East Essex PCT	102	16.0
North East Lincolnshire Care Trust Plus	157	48.0
North Lancashire PCT	435	66.6
North Lincolnshire PCT	225	71.1
North Somerset PCT	184	45.6
North Staffordshire PCT	179	43.9
North Tees PCT	299	79.3
North Tyneside PCT	150	36.7
North Yorkshire and York PCT	680	44.3
Northamptonshire PCT	704	53.3
Northumberland Care Trust	307	49.3
Nottingham City PCT	171	28.0
Nottinghamshire County PCT	645	50.5
Oldham PCT	345	77.6
Oxfordshire PCT	495	40.4
Peterborough PCT	92	30.7
Plymouth PCT	620	123.9
Portsmouth City PCT	310	77.7
Redbridge PCT	114	23.8
Redcar and Cleveland PCT	80	30.1
Richmond and Twickenham PCT	171	49.4
Rotherham PCT	151	31.0
Salford PCT	254	57.0
Sandwell PCT	186	30.9
Sefton PCT	154	28.5
Sheffield PCT	640	59.9
Shropshire County PCT	733	128.5
Solihull Care Trust	175	42.4
Somerset PCT	402	39.2

Number receiving National Health Service continuing care in total and per 50,000 population, England Quarter 4, 2008-09

Organisation name	Number	per 50,000 population
South Birmingham PCT	193	27.8
South East Essex PCT	78	11.7
South Gloucestershire PCT	184	38.0
South Staffordshire PCT	338	29.0
South Tyneside PCT	110	36.4
South West Essex PCT	226	28.4
Southampton City PCT	268	54.6
Southwark PCT	131	25.4
Stockport PCT	315	56.0
Stoke On Trent PCT	151	29.3
Suffolk PCT	392	33.3
Sunderland Teaching PCT	299	54.6
Surrey PCT	682	31.8
Sutton and Merton PCT	254	33.6
Swindon PCT	135	35.1
Tameside and Glossop PCT	199	44.2
Telford and Wrekin PCT	249	77.4
Torbay Care Trust	146	52.5
Tower Hamlets PCT	128	29.8
Trafford PCT	109	25.9
Wakefield District PCT	233	35.0
Walsall PCT	377	75.5
Waltham Forest PCT	257	56.3
Wandsworth PCT	205	36.6
Warrington PCT	210	54.5
Warwickshire PCT	818	79.2
West Essex PCT	102	19.5
West Hertfordshire PCT	233	21.7
West Kent PCT	388	29.3
West Sussex PCT	431	27.8
Western Cheshire PCT	176	35.8
Westminster PCT	138	29.4
Wiltshire PCT	364	41.8
Wirral PCT	255	41.2
Wolverhampton City PCT	287	60.4
Worcestershire PCT	312	28.6

Asked by *Baroness Greengross*

To ask Her Majesty's Government what proportion of people receiving NHS continuing care each year do not live at home. [HL6104]

To ask Her Majesty's Government how many people they forecast will need to be supported by the NHS continuing care funding stream each year until 2031; and what proportion they forecast will be cared for (a) in their own homes, and (b) elsewhere. [HL6105]

Baroness Thornton: Information on the proportion of people receiving National Health Service continuing care each year that do not live at home is not collected centrally.

We have made no forecast of future NHS continuing care funding, or of the proportion who will be cared for in their own homes, or elsewhere.

Asked by *Baroness Greengross*

To ask Her Majesty's Government whether the cost of funding NHS continuing care has been included in the overall care costs for older people to be funded as part of the proposed national care service. [HL6106]

Baroness Thornton: The cost of funding National Health Service continuing care is included in the general funding allocation made to primary care trusts, and is therefore not included in the proposed national care service costings.

Health: Hydration

Question

Asked by *Lord Patten*

To ask Her Majesty's Government further to the Written Answer by Baroness Thornton on 20 October (WA 60), how requests from patients for hydration are communicated to health care professionals if they are not made in writing. [HL5947]

Baroness Thornton: There is no set procedure for requesting artificial nutrition or hydration, or any other form of treatment. The requests may be made verbally by the patient, or, if they do not have the capacity to make a request, by those close to the patient. In accordance with professional guidance, decisions on artificial hydration should be recorded and be accessible to the patient, team members and others involved in providing care to the patient.

Health: Tuberculosis

Questions

Asked by *Baroness Masham of Ilton*

To ask Her Majesty's Government what progress has been made towards the measures of success highlighted in the Chief Medical Officer's "Stopping Tuberculosis in England" action plan. [HL5967]

To ask Her Majesty's Government what progress has been made towards the 10 recommended actions in the Chief Medical Officer's "Stopping Tuberculosis in England" action plan. [HL5968]

Baroness Thornton: In October 2004, in response to an increase in tuberculosis (TB), the Chief Medical Officer published an action plan, "Stopping Tuberculosis in England", a copy of which has already been placed in the Library. Work is underway to implement the 10 actions considered essential to bring TB under control.

The plan outlined four measures of success:

a progressive decline in rates of TB in population groups born in England. Data from the Health Protection Agency (HPA) indicate that while rates in these groups have not decreased, they have remained stable at four per 100,000 population between 2002-07 (latest data);

a reduction in the incidence of disease among people who entered the country and became resident here within the previous five years. TB data collected by the HPA report only rates of TB among non-United Kingdom born people, and those rates for the years 2002-07 have been 88, 92, 96, 102, 94 and 87 per 100,000 population. The department did not expect an immediate decline in rates because of improved TB detection following implementation of the TB action plan;

no more than 7 per cent of new cases resistant to the anti-TB drug isoniazid and two per cent multidrug resistant. HPA data show 6.8 per cent of cases were resistant to isoniazid, and 1.2 per cent were multidrug resistant; and

a reduction in the number of human cases of bovine TB in people under age of 35 years born in the UK. HPA data from 2002-07 show the numbers of case per year in England as 17, 15, 14, 24, 26, and 23, with the peak in 2005-06 due to an unusual cluster outbreak in the West Midlands.

The strategy to effective TB control is awareness and early detection and completion of treatment, and key actions taken by the department to provide the National Health Service with the tools to improve services include: local awareness raising through funding to TB Alert; the TB Toolkit for commissioners; the Find and Treat pilot in London to actively find cases among hard to reach groups; the provision of free TB drugs for all patients and a more targeted Bacillus Calmette-Guérin vaccination programme.

Immigration

Questions

Asked by **Lord Hylton**

To ask Her Majesty's Government how many cases have been heard by the Special Immigration Appeals Commission in each year since it was established; and how many cases are now listed for consideration or pending a final decision. [HL5772]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The number of cases heard and determined since SIAC is shown in the table below.

	<i>No of cases heard and determined</i>
1999-Oct 2003	2
Oct-Dec 2003	12
2004	5
2005	2
2006	9

	<i>No of cases heard and determined</i>
2007	7
2008	2
2009	2
Total	41

Records showing in which years the cases prior to 2003 were heard and determined are not readily available following the fire at Field House.

There are 14 pending cases that have yet to be heard and determined for 2009-10.

Asked by **Lord Roberts of Conwy**

To ask Her Majesty's Government further to the reply by Lord West of Spithead on 22 October (*Official Report*, House of Lords, col. 809), what are the net migration figures in 2007 and 2008 that showed a 44 per cent reduction; and how those figures were calculated. [HL5991]

Baroness Crawley: The information requested falls within the responsibility of the UK Statistics Authority. I have asked the authority to reply.

Letter from Jil Matheson, National Statistician, to Lord Roberts of Conwy, dated October 2009.

As National Statistician, I have been asked to respond to your Parliamentary Question concerning the figures that showed a 44 per cent reduction in net migration from 2007 to 2008 and how they are calculated. (HL5991).

The figures relate to the provisional 2008 International Passenger Survey (IPS) data released on 27 August 2009.

The net migration estimate is the difference between the immigration and emigration estimates.

In 2008 net migration was 118,000. This was 92,000 or 44 per cent lower than the 2007 net migration figure of 209,000.

Care should be taken when interpreting changes in net migration since a small change in net migration may mask large changes in immigration and emigration flows. There is also not a unique set of circumstances that result in a particular change to net migration. In this case the reduction is mainly the result of an increase in emigration of over 77,000 with a smaller decrease in immigration of over 14,000.

Immigration: Detainees

Questions

Asked by **Lord Hylton**

To ask Her Majesty's Government whether immigration detainees who are pregnant are provided with dietary supplements. [HL5897]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): Pregnant women in detention have access to all appropriate services relating to pregnancy, confinement and the post-natal period, including the provision of adequate nutrition during

pregnancy and lactation. These services are delivered in accordance with the National Institute for Clinical Excellence (NICE) Guidelines on Maternal and Child Nutrition and the Department of Health's Child Health Promotion strategy.

Pregnant women in detention are seen and reviewed by registered midwives from the community and are offered ante-natal classes and scans at the same stages as they would be offered in the community. All women who are intending to get pregnant or are less than 12 weeks gestation are offered folic acid supplements. All pregnant women at any stage of the pregnancy, or who are breast feeding, are routinely offered Vitamin D and also receive extra fruit and an additional fresh milk allowance.

Asked by Lord Hylton

To ask Her Majesty's Government whether prophylactic medicines are offered sufficiently in advance to detainees about to be deported to malarial countries. [HL5901]

Lord West of Spithead: UK Border Agency guidance concerning the offer of prophylactic medicines to detainees about to be removed to malarial countries is in place and available to healthcare staff in removal centres.

The guidance, which is based on advice from the Health Protection Agency's Advisory Committee on Malarial Prevention and is currently under review in liaison with the Department of Health, requires prophylactic medicines to be offered to detainees, subject to medical advice, and time allowed for it to take effect before their removal from the UK.

Motorcyclists: Noise

Question

Asked by Lord Luce

To ask Her Majesty's Government whether they keep records of prosecutions of motorcyclists for vehicle noise offences; and, if so, how many there have been in each county in each of the past three years. [HL6111]

The Secretary of State for Transport (Lord Adonis): Her Majesty's Government do not keep such records. The only offences identified by the statistical collection held within the Ministry of Justice (on outcomes of court proceedings) that are specific to motor cycles are "failing to wear a crash helmet" and "unlawful pillion riding". Other offences committed by motorcyclists cannot be identified from the centrally held data, either because the offence is not specific to motorcycles (eg noise offences) or because it is grouped together with other miscellaneous motoring offences.

Parliamentary Constituencies

Question

Asked by Lord Grocott

To ask Her Majesty's Government how much time is required for a full review of parliamentary constituencies in the United Kingdom. [HL5850]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): Under Section 3 of the Parliamentary Constituencies Act 1986, the separate, independent, Boundary Commissions for England, Northern Ireland, Scotland and Wales are required to conduct a general review every eight to 12 years of the constituencies within their respective areas.

There is no specified duration for a boundary review. The duration of any parliamentary boundary review is entirely a matter for the relevant Boundary Commission. The last general review of parliamentary constituencies from announcement to completion in each part of the UK took six years and eight months in England, four years and four months in Northern Ireland, three years and five months in Scotland and two years and one month in Wales.

Police

Question

Asked by Lord Condon

To ask Her Majesty's Government when the code of practice on the management of police pursuits will be issued to police forces. [HL6009]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The Home Office, NPIA and ACPO have begun work to draw up the code of practice. This will include a formal consultation period once a draft code has been produced. The timetable for producing the draft code will be discussed by the HO chaired project board later this month.

Population

Question

Asked by Lord Laird

To ask Her Majesty's Government what projections they have for the population of the United Kingdom for each 10 years up to 2050. [HL6044]

Baroness Crawley: The information requested falls within the responsibility of the UK Statistics Authority. I have asked the authority to reply.

Letter from Jil Matheson, National Statistician, to Lord Laird, dated October 2009.

As National Statistician I have been asked to reply to your question to Her Majesty's Government regarding what projections they have for the population of the United Kingdom for each ten years up to 2050. (HL6044)

The most recent national population projections, based on the population at the middle of 2008, were published by the Office for National Statistics on 21 October 2009. The table below shows the projected total population of the United Kingdom for the years requested.

<i>Year</i>	<i>Total population (millions)</i>
2010	62.2
2020	66.5
2030	70.6
2040	73.9
2050	76.8

The assumptions underlying national population projections are demographic trend based. They are not forecasts and do not attempt to predict the impact that factors such as future government policies or changing economic circumstances might have on the population. The projections also become increasingly uncertain the further they are carried forward.

Prisons: Population

Question

Asked by **Lord Stevens of Ludgate**

To ask Her Majesty's Government whether they have issued guidance or advice to the Crown Court about whether judges should take account of the prison population in their case management or in issuing directions to juries; and, if so, what guidance or advice they issued. [HL5917]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): No. The prison population has no direct impact on case management. Nor does it impact on whether an offender should be found guilty or not guilty, which is the matter for the jury.

However, the Criminal Procedure Rules provide a framework for managing criminal cases. Within that framework the management of individual cases is a matter for the judiciary taking account of custody time limits set by the Prosecution of Offences Act 1985. Listing guidance laid down by the judiciary highlights the importance of minimising time spent on remand by those waiting trial or sentence.

Roads: A1(M) Hatfield Tunnel

Question

Asked by **Lord Monson**

To ask Her Majesty's Government whether the ventilation system in the Hatfield Tunnel on the A1 is coping with vehicle exhaust fumes. [HL6048]

The Secretary of State for Transport (Lord Adonis): The ventilation system in place in A1(M) Hatfield Tunnel is maintaining air quality in accordance with the Highways Agency standards.

Shipping: Budgets

Questions

Asked by **Lord Berkeley**

To ask Her Majesty's Government what is the budget for 2010–11 of the Research and Radionavigation Directorate of the General Lighthouse Authorities of the United Kingdom and Ireland. [HL5919]

The Secretary of State for Transport (Lord Adonis): The budget for the Research and Radionavigation Directorate in 2009–10 was £2,227,000. The budget for 2010–11 will be determined in the light of ongoing discussions between the Department for Transport and the General Lighthouse Authorities as part of the normal process of reviewing budgets for the next financial year.

Asked by **Lord Berkeley**

To ask Her Majesty's Government whether a cost-benefit analysis has been carried out of the Research and Radionavigation Directorate of the General Lighthouse Authorities of the United Kingdom and Ireland; and, if so, whether they will place a copy in the Library of the House. [HL5920]

Lord Adonis: The Research and Radionavigation (R&RNAV) Directorate of the General Lighthouse Authorities (GLAs) has taken forward development projects including the solarisation of aids to navigation, LEDs, automation of lighthouses, differential global positioning system and the vessel automatic identification system. While a cost benefit analysis had not been carried out, it is estimated that over the past 10 years the GLAs have, partly as a result of these advances in technology, been able to cut light dues as well as the costs to ship owners associated with AtoN provision by £167 million.

Shipping: General Lighthouse Authorities

Questions

Asked by **Lord Berkeley**

To ask Her Majesty's Government how many people are employed in the Research and Radionavigation Directorate of the General Lighthouse Authorities of the United Kingdom and Ireland. [HL5918]

To ask Her Majesty's Government how many staff there will be in the Research and Radionavigation Directorate of the General Lighthouse Authorities of the United Kingdom and Ireland in 2010–11; and how many there are in 2009–10. [HL5921]

The Secretary of State for Transport (Lord Adonis): There are 12 people currently employed in the General Lighthouse Authorities' Research and Radionavigation Directorate.

The directorate's staff complement for 2009–10 and 2010–11 is 14.

Asked by **Lord Berkeley**

To ask Her Majesty's Government on how many occasions personnel from the Research and Radionavigation Directorate of the General Lighthouse Authorities of the United Kingdom and Ireland visited the United States on business relating to the e-Loran project in (a) 2007, and (b) 2008; how many visits are planned for (1) 2009, and (2) 2010; and what the costs of the visits were or are projected to be. [HL5922]

Lord Adonis: Personnel from the General Lighthouse Authorities' Research and Radionavigation Directorate visited the United States on business relating to the e-Loran project once during 2008, and twice in 2009. No visits were made in 2007. The total cost was £21,393.

No further trips are currently planned for the rest of 2009 or during 2010.

Somalia: Pirates

Question

Asked by **Lord Tebbit**

To ask Her Majesty's Government whether pirates arrested off Somalia by the Royal Navy have been brought to justice; and, if so, where. [HL5872]

The Minister for International Defence and Security (Baroness Taylor of Bolton): Suspected pirates detained by the Royal Navy, and for whom it was assessed there was sufficient evidence upon which to prosecute, have been transferred to Kenya and are currently on trial.

Tax Credits

Question

Asked by **Lord Ouseley**

To ask Her Majesty's Government what measures they will introduce to ensure that parents can meet childcare costs; and whether they will ensure that the working tax credit is adequate for such purpose and to keep more parents in work. [HL5795]

The Financial Services Secretary to the Treasury (Lord Myners): The tax credits system provides significant support to working parents with childcare costs. 470,000 families currently benefit from the childcare support available through the childcare element of working tax credit; 15 times more families than were helped by comparable support in 1997. The majority of claimants receive 80 per cent of their childcare costs; the average amount of support that each family receives is £68 per week.

Violent Extremism

Question

Asked by **Lord Ouseley**

To ask Her Majesty's Government what is their response to the Institute of Race Relations report Spooked: How not to prevent violent extremism,

which suggests that the Prevent programme for tackling extremism fosters division, mistrust and alienation. [HL5793]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): Prevent, which is our long-term strategy to stop people becoming or supporting violent extremists, is an essential element of our counter terrorist strategy, CONTEST. We do not accept that it fosters division, mistrust or alienation.

We are currently reviewing the report and will be providing a detailed response in due course.

Young People: Custody

Question

Asked by **Lord Dholakia**

To ask Her Majesty's Government how many young people aged under 18 were remanded in custody in each year since 1992. [HL5905]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The decision on whether to grant bail or remand a defendant to custody is one for the courts to make, in each case, in line with the statutory framework primarily set out in the Bail Act 1976. The table below sets out the number of remand episodes in each year since 2001. Earlier data are not available.

The number of remand episodes for young people in each year 2001-08

Year	2001	2002	2003	2004	2005	2006	2007	2008
Total	4813	5638	5513	5721	5605	5512	5368	5102

These figures have been supplied by the Youth Justice Board and have been drawn from administrative IT systems, which, as with any large-scale recording system, are subject to possible errors with data entry and processing and may be subject to change over time.

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