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

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

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House of Lords

Monday 19 October 2026

2.30 pm

Prayers—read by the Lord Bishop of Peterborough.

Western Balkans: Russian and Chinese Influence

Question

2.36 pm

Asked by ***Baroness Helic***

To ask His Majesty's Government what assessment they have made of Russian and Chinese influence in the Western Balkans, particularly in Serbia, in terms of defence, security and robotics.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Lord Wood of Anfield) (Lab): My Lords, Russia and China have different objectives in the western Balkans and use different levers and methods. We assess that Russia aims to keep its influence in the western Balkans and prevent further regional integration with the EU and NATO. China has built economic and political influence by investing in infrastructure, mining and technology. Serbia is the principal regional partner of both, with energy dependency on Russia but growing trade with China, including purchasing drones and air defence systems. We are working with the western Balkans and other partners to strengthen regional security and resilience and to support Euro-Atlantic pathways and co-operation.

Baroness Helic (Con): I thank the noble Lord for his Answer. Ukraine has demonstrated beyond any doubt the terrible cost of failed deterrence. We must heed that warning in the western Balkans in particular, where Russia continues to foment separatism and use the region to train operatives for destabilising activities across Europe. Meanwhile, China is deepening defence co-operation with Serbia, including in drones and military robotics. President Trump's decision to waive new sanctions on Russia makes European resolve all the more vital. Is the noble Lord satisfied that KFOR in Kosovo and EUFOR in Bosnia have the readiness, resources and reinforcement plans necessary to deter and respond swiftly to what might be another crisis in Europe, and what firm commitment is he going to seek from the European allies at this week's Berlin process summit to ensure that they have the necessary commitments in place and the political will to implement them?

Lord Wood of Anfield (Lab): I thank the noble Baroness for that and for all her continuing, passionate commitment to this area over many years. She is right: I will be attending the Berlin process summit in Montenegro later this week. She is also right that EUFOR in Bosnia and KFOR in Kosovo are key parts of preparedness. We obviously participate in KFOR; we contribute around 45 personnel to NATO's KFOR mission. EUFOR is an important part of the international architecture, and we continue to explore opportunities to co-operate with it. In the military sense, but also in co-operating with other Governments to prepare for hybrid attacks, as well as in economic support, we continue to support Bosnia, Kosovo and the region more broadly against the Chinese and Russian challenges that they face.

Baroness Suttie (LD): My Lords, Kremlin-controlled RT Balkan and Sputnik Serbia, as well as constant intimidation of the free media, are making life extremely difficult for journalists in Serbia in the run-up to Sunday's elections. Will the Minister commit to doing all he can to support journalists who work for a genuinely free press in Serbia? Will he work to reverse the decision by the UK Government to cut 40% of funding for the western Balkans, given that more work is needed to support an independent media and not less?

Lord Wood of Anfield (Lab): I thank the noble Baroness for that question. She is absolutely right that independent media are crucial in the region generally. It is an election season across the area—Serbia's, as she says, is coming up this weekend. We are clear that we want a fair, transparent, peaceful and safe electoral process, conducted in line with Serbia's laws and international democratic commitments. We are monitoring what happens carefully, alongside international partners including the OSCE Office for Democratic Institutions and Human Rights. We call on all political actors to respect the democratic process and the right of independent journalists to report on that process.

Lord Tyrie (Non-Afl): Vuçić is a close ally of Putin. He uses Putin as a role model for the way he conducts his politics. He is ruthless in the extreme in suppressing dissent in Serbia. We used to think of Serbia as a source of stability in the region, or at least we used to hope it was. Do the Government now accept that Serbia is a major source of instability in the region and that we need fundamentally to change our policy in the light of that fact?

Lord Wood of Anfield (Lab): I thank the noble Lord for that. Serbia remains, in our view, an important regional partner. It has a decisive role in supporting security and stability in the western Balkans. It has a complicated relationship with Russia for energy dependency and other relationships, with China for economic investment—as the noble Baroness said earlier—and with the European Union, where it maintains military neutrality towards NATO but continues practical co-operation with it despite that. Serbia has a complex web of relationships with powers around the world, but it is a crucial partner for stability in the region, and we continue to engage with it on co-operation and democratic reform and insist on its responsibilities being observed towards Kosovo and Bosnia and Herzegovina.

Baroness Rawlings (Con): Can the Minister tell your Lordships a little more about what HMG are doing to counteract disinformation and propaganda in the West?

Lord Wood of Anfield (Lab): I thank the noble Baroness for that. We are doing a lot with allies in the region to respond to the threat from Russian hybrid activity in particular, including exposing the activities

[Lord Wood of Anfield]
of the Russian intelligence services, expelling intelligence officers here and sanctioning individuals. We are working with Governments and partners across the western Balkans to ensure that they have the tools: the FIMI tools and other tools. As the noble Baroness knows, the Prime Minister announced last month the setting up of a new national centre for information defence, which we hope will provide expertise that can also be shared with allies and partners in the region.

Lord Peach (CB): I agree with premise of the question from the noble Baroness, Lady Helic. I would add to this short debate that such influence is very effective in those countries. Does the Minister now think it is time to enhance our understanding of what Russia and China are doing through better intelligence, and to make it more of a priority for us to understand how they are undermining their own journey to European integration?

Lord Wood of Anfield (Lab): The noble and gallant Lord asks a good question. Is he asking specifically about Bosnia? I am not sure which country he is asking about, but in general, on intelligence, I know from my short time as a Minister that there is a huge focus on improving, strengthening and making more robust our intelligence—and sharing knowledge, as much as is consistent with the demands of secrecy, with other countries. We are doing a lot across government to improve our understanding of direct, hybrid and other threats from Russia, and the way in which Chinese economic influence is changing incentives for countries in the region, and that will have to continue.

Lord Callanan (Con): My Lords, last month, the former American ambassador to Bosnia and Herzegovina, Michael Murphy, said that the West's approach to the region has failed. It is clear that Putin's strategy in the Balkans is to sow division and stoke sectarian division to increase Russia's influence. What assessment have Ministers made of the willingness of the United States to assist in reassessing our approach in the region to help roll back that Russian influence?

Lord Wood of Anfield (Lab): We work with the United States in the region. There are specific issues where we have discussions with the US continually—on the high representative issue, for example. We work with international partners; we support and complement the EU-led dialogue, and we engage with leaders in Kosovo, Serbia, Bosnia et cetera. We support local leaders on delivering processes to enhance security and stability, and we work with the United States to ensure that democracy and a Euro trajectory for the region as a whole continue to be an emphasis of partner states there.

Baroness Kingsmill (Lab): My Lords, can the Minister clarify our relationship with China in the light of the new sanction arrangements? Should we regard China as an adversary, as we do Russia, or as a powerful competitor?

Lord Wood of Anfield (Lab): The size of China means that we have to engage with it with confidence, carefully, pragmatically and in a clear-eyed way, as my noble friend knows. It means that we have to confront the full range of challenges that are posed by China, from espionage and cyber attacks to the emergence of organised crime. We also have to engage at the commercial and trade levels to ensure that we can be partners with China in areas of mutual economic interest.

Lord Wallace of Saltaire (LD): My Lords, will the Minister have time during his visit to Montenegro to investigate illicit financial flows, particularly from Russia? He will know that there have been substantial flows of illegal currency through Serbia and Montenegro. He may also know that George Cottrell claims that his wealth comes from casinos and cryptocurrency in Montenegro. The evidence of Russian money coming in as foreign interference in British politics therefore appears to be quite strong. Could he investigate further?

Lord Wood of Anfield (Lab): The noble Lord is right that there are definitely issues of illicit finance in some parts of the region, as well as sanctions evasion and tools to get around existing sanctions. As he knows, we have led the pack on sanctions and that remains a focus of mine and of the Government.

New Homes: Accessibility

Question

2.47 pm

Asked by ***Baroness Griffin of Princethorpe***

To ask His Majesty's Government what steps they are taking to ensure that new homes built under the new towns programme and their associated infrastructure are accessible for disabled people and people with changing conditions throughout their lives.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government (Baroness Taylor of Stevenage) (Lab): My Lords, I agree with my noble friend that new towns represent a unique opportunity to use place-making good practice to create inclusive and accessible infrastructure, housing and communities. Accessibility is a core theme of our place-making principles, which recommend that new towns include a diverse range of housing types and tenures to suit the needs of a balanced community, and emphasise the need to provide access to local amenities, public transport and much more. All national policies and standards related to inclusive design and accessibility will apply to new towns.

Baroness Griffin of Princethorpe (Lab): I thank my noble friend the Minister for her Answer and for agreeing to meet me on this matter. People are disabled by barriers in society and negative public attitudes, rather than by their conditions. Can my noble friend continue to press for new-build communities and their infrastructure to be accessible by design and adaptation for disabled people, people with conditions and the UK's ageing population?

Baroness Taylor of Stevenage (Lab): I am grateful to my noble friend for championing this important issue. The New Towns Taskforce recommended that new towns should be more than just housing and have

that high-quality place-making to which I referred, as well as earlier investment in infrastructure and a focus on creating thriving communities with distinct identities. For me, thriving communities mean that everyone has the opportunity to succeed and be housed appropriately for their needs. I will continue to work with colleagues in the new towns team, who are also developing standards for housing, to make sure that we do all we can so that people's housing enables their full participation in their community and in society.

Lord Goddard of Stockport (LD): Could the Minister also ask the team to look at some of the innovative measures being taken in the north-west? It is not only adaptations that matter but staircasing ability, as someone could get in accommodation but their condition could change. That block or building could staircase down—not instantly, but as that person's condition progresses—to wider doorways for wheelchairs or showers that they can enter. These buildings are becoming very popular; they cost a little more, but they make a real difference in communities, because people do not have to move away and move back again. That continuity engages people and makes entire communities and these accommodation sites more secure.

Baroness Taylor of Stevenage (Lab): We have clearly set out that we want to see at least—and I mean at least—40% of homes built to the M4(2) standard, which will help give a start to widespread accommodation that helps with those things. It is not just about the ability to staircase in any case but the ability to staircase within your local area, so that, when you have to move on, you do not lose all contact with community, local facilities, your neighbours and your other social contacts. We have seen some very good practice on this, and I hope we will be able to share that and to make sure that, as we build them, we incorporate that approach throughout the new towns we are creating.

Lord Young of Cookham (Con): My Lords, has the Minister read the report, published by one of your Lordships' Select Committees last week, called *New Towns: Commit and Build* and what it says about modern methods of construction?

"Standardisation and modern methods of construction could also mean that houses are built faster than ever before".

Will she use this new generation of new towns to capitalise on the possible benefits of modern methods of construction, higher standards, lower costs and improved safety?

Baroness Taylor of Stevenage (Lab): I was very grateful to the Built Environment Committee, which also published the final recommendations of its three-part inquiry. I am sure the noble Lord will have heard me say before that I am a great advocate for modern methods of construction: they mean faster delivery, better standards because they can be standardised better, and, in a country where it is normally raining all the time—unusually, this year, it has not done it so much—the vast majority of the construction can take place in a factory. I am very keen on that. There were some financing and insurance obstacles to get over, but we need to work through those and make sure MMC is a clear part of our construction for the future.

Lord Weir of Ballyholme (DUP): My Lords, may I ask the Minister what actions the Government are taking to stress-test the accessibility of locations for disabled people? As someone who regularly uses a wheelchair, I can think of many locations that may seem perfectly fine to the naked eye of someone who does not have a disability, but where, for somebody trying to deal with the practicalities, it is a completely different situation.

Baroness Taylor of Stevenage (Lab): That is a key issue. I recently took on overall responsibility in the team for what was badged as older people's housing but which I see as accessible housing. The first thing to say is that everyone's needs are different: because something is accessible to one person with a disability does not mean it will necessarily be to another. The important thing is to work with the groups that champion issues for those with disabilities and to make sure that we are linking them into the construction industry and doing all we can to make sure that housing is accessible for all.

Lord Spellar (Lab): My Lords, I welcome the statement just now from the Minister on off-site fabrication and the great advantages that will flow from that. Does that not also require a steady programme of work, and is it not then incumbent on the department to work with local authorities and others to ensure a steady flow of work, rather than the boom and bust we have often seen before?

Baroness Taylor of Stevenage (Lab): Well, I hope we have demonstrated since we came into power that we see that. We have our housing target of 1.5 million, which is very important to this Government. We have invested £39 billion in social and affordable housing, as well as investing significantly in the construction skills sector to ensure we are making construction finance flow much more smoothly, and to give people the confidence—in MMC and construction more widely—to commit to delivery.

Baroness O'Neill of Bexley (Con): My Lords, high construction costs and regulatory complexity affect small housebuilders in particular, as they are less able to absorb those higher costs. What are the Government doing to involve small housebuilders in their new towns programme?

Baroness Taylor of Stevenage (Lab): We have taken a number of steps to support SME builders. I learned about this from my experience of development in my own town. While the big construction companies can take so much, there is a great deal for SME builders to do, particularly at local level. We need to make sure that, right across the procurement work we are doing, we enable those SME builders to participate in the process. We do not want to make it too bureaucratic or complicated, because SME builders, for the most part, are building, and we need to make that procurement accessible for them.

Baroness Boycott (CB): My Lords, what provisions are the Government making in all this new build to ensure the houses are heat-proof, which is especially important to vulnerable people going forward after the summer?

Baroness Taylor of Stevenage (Lab): Sustainability has been a key part of what we have been doing. We had our warm homes plan, but new towns also present a significant opportunity to deliver clean, secure and affordable energy infrastructure from the outset, which will both keep homes warmer and reduce long-term costs for households and businesses. By planning that energy infrastructure alongside new development, we can make sure that new towns are future-proofed, support economic growth and contribute to that clean energy and net-zero ambition, so that we ensure that the homes in those new towns are warm and affordable.

Baroness McIntosh of Pickering (Con): My Lords—

Lord Kirkhope of Harrogate (Con): My Lords—

Captain of the Honourable Corps of Gentlemen-at-Arms and Chief Whip (Lord Kennedy of Southwark) (Lab Co-op): It is the turn of the Conservatives. Can they please make up their minds who will ask the question?

Baroness McIntosh of Pickering (Con): My Lords, can the noble Baroness also ensure that new towns are flood-proof, and can she give the House today a guarantee that no new town will be built in an area prone to flooding or in a functional flood plain?

Baroness Taylor of Stevenage (Lab): All the current proposals are now going through a very significant strategic environmental assessment process. It is an iterative process that will inform and improve decision-making on those locations to make sure we have full confidence that final decisions on new towns have been reached on the best available evidence, and that includes evidence around both flooding and water availability and our understanding of the programme's environmental impact. We want to make absolutely sure that we do that and that the current environmental assessment system is adapted to ensure it is delivering the best for those new towns. They are going to be a vital feature to make sure we meet the housing needs going forward, and I look forward to delivering them.

UK and EU: Alignment on Renewable Energy

Question

2.57 pm

Asked by ***Lord Moynihan of Chelsea***

To ask His Majesty's Government what assessment they have made of the United Kingdom's ability to align with the European Union's acquis on renewable energy.

Baroness in Waiting/Government Whip (Baroness Curran) (Lab): My Lords, this Government are negotiating an electricity agreement with the EU to reduce the cost of trading electricity with our European partners, strengthen the UK's energy security, support investment in the North Sea and help deliver our clean power mission. As part of the negotiations, the UK and the EU will discuss the relevant rules relating to renewable energy. The detailed commitments under such agreement will be developed as part of the negotiations.

Lord Moynihan of Chelsea (Con): My Lords, the financial benefits to the UK of joining the EU electricity market will be nugatory to possibly negative, but the EU has said that, in addition, the UK would have to join the acquis, which will require us to be producing 42.5% of our total energy from renewables by 2030—not just our electricity, which is only 18% of our total energy—and that we will be sanctioned by the ECJ if we do not achieve that 42.5% target. Can the Minister confirm that the Government accept that 42.5% is entirely impossible for us to achieve in any such timeframe, and that our negotiators have been instructed to accept that target under no circumstances and, indeed, not to join the EU's electricity market unless we get a carve-out from that 42.5%?

Baroness Curran (Lab): There is a great deal in that question, and I have to say that I would challenge quite a part of it, but let me do my very best to address the details that the noble Lord has indicated.

The purpose of these negotiations is to reduce the cost of trading electricity with our European partners. Energy UK has stated that, during the price spike of 2022, between £120 million and £370 million per year could have been saved by efficient trading. I would have thought that all in this House would look for opportunities to reduce energy bills at this time. Trading with our nearest partners is common sense—it makes sense. This agreement requires co-operation. It does not require membership of the single market. The basis of this agreement is mutual prosperity. It reduces inefficiencies and encourages co-operation while it benefits consumers and businesses. We will negotiate all the rules and will engage with Parliament as we see fit—as we should, of course—as is outlined. The UK-EU common understanding sets out that any agreement on state aid should provide for the UK's dynamic alignment with relevant EU rules and respect UK constitutional and parliamentary processes. That applies across the board. The ECJ will not be involved in the acquis.

Lord Teverson (LD): My Lords, on a more positive note, when the Government negotiate to align with the EU acquis, will they seek to rejoin the North Seas Energy Cooperation agreement that we were a member of before Brexit, which will allow a proper functioning grid in the North Sea, much greater resilience for energy in this country and lower costs for consumers as well?

Baroness Curran (Lab): This Government will always take opportunities to improve our grid connections and reduce costs. We see partnership as part of that. It makes sense that we negotiate with countries with which we have interconnectors, so we will continue to do that. Membership of specific organisations, such as the North Seas Energy Cooperation that the noble Lord suggested, will be part of these negotiations. These negotiations will be discussed in Parliament. We hope to develop partnerships and to participate in the relevant bodies as per the agreement.

Baroness Whitaker (Lab): My Lords, as my noble friend will know, the European Commission funded wave energy substantially, as witnessed at the remarkable

prototype site in Orkney. What plans do our Government have to continue the stimulation of this essential renewable for the intermittency mix?

Baroness Curran (Lab): I recognise the noble Baroness's interest in and knowledge of wave energy. She has raised that issue with me a number of times. We will always take opportunities, if we can, to increase our renewable energy in the UK, because we see it as vital to the production of clean energy, which is vital to the economic security of this country. We hope that we can participate as it is in our interest, and we will always protect British interests first.

Lord Lilley (Con): Can the Minister explain—indeed, is she even aware—why an agreement on the electricity sector, which is less than one-fifth of our energy use, should need to cover the other four-fifths of our energy outside the electricity sector? Given that renewables account for only 16% of our total energy use, how can we possibly meet a target remotely comparable to 42.5% in two years without crippling costs on the cost of living?

Baroness Curran (Lab): I do not believe that that will be the case. In fact, our commitment to renewable energy is ambitious in this country, and we will continue to be ambitious in this country for renewable energy. The acquis allows us to integrate the electricity market, which will help bring down costs and will work in the interests of British people.

Lord Whitehead (Lab): My Lords, does the Minister agree that removing ourselves from the internal energy market, which we did but did not have to do at the time of Brexit, was a fundamental mistake? The internal energy market was a great support for UK energy security and vital for our future. Can she tell me how far the negotiations have now gone and when we can expect to see the outcome of these negotiations following the EU summit of May 2025?

Baroness Curran (Lab): I thank the noble Lord for that question. I emphasise that these negotiations are ongoing and that we see them as in Britain's interests. We hope that they will be raised at the next UK summit that has been announced, but we are not sure about that. They may continue beyond that. I emphasise the value of these negotiations. It was a mistake to withdraw from some of these agreements and we have lost because of that. This is a bespoke agreement that will help the UK, and I emphasise again that no new EU rules will apply in the UK unless and until the UK agrees to them.

Lord Redwood (Con): Why, when looking at the cost of renewables, do the Government leave out the cost of back-up gas power which is needed, the big increase in grid costs which will be needed to handle unreliability, and the payments that have to be made when there is too much wind?

Baroness Curran (Lab): The noble Lord has often raised the issue of the unreliability of renewables in this context, but one of the big challenges this country is facing is our vulnerability due to the unreliability of gas at the moment and fossil fuels. We are living in a global crisis, where the unavailability and the cost of gas are causing huge problems. As he is so keen on comparisons, perhaps he could undertake that comparison, too?

Lord Moynihan (Con): My Lords, I declare my interest as chair of Amey, Acteon and Buckthorn Partners. Does the Minister agree that the impact of this potential initiative is rule-taking without the right to vote at the table? As my noble friends have said, an economy-wide renewables target in the UK is not on track to be met because—and I regret that she has not addressed this—it is not just the 20% of electricity that we use but the 80% of oil-driven and gas-driven power that we use as well, for our transport and heating, and a permanent, multibillion-pound financial contribution, which is uncosted and would burden British taxpayers.

Baroness Curran (Lab): I emphasise again to the noble Lord that, when the acquis is agreed, along with any implications for the UK, we will not agree to comply with any rules that we have not participated in making. An agreement requires co-operation. We will not have to follow rules; we will negotiate rules. The UK-EU common understanding sets out that any agreement on state aid should provide for the UK's dynamic alignment and that any further agreement on other dimensions requires constitutional parliamentary processes. It also envisages an appropriate transition period to allow the UK to implement any new requirements.

Baroness Watkins of Tavistock (CB): Can the Minister assure the House that the Government will simultaneously be looking at increasing our gas storage facilities, which are putting us at significant risk compared to most of Europe?

Baroness Curran (Lab): Again, this is an important point that has been discussed. I absolutely assure the House that our gas and energy supplies are resilient and there is no question of having had to address that resilience.

Lord Lilley (Con): I thank the Minister for allowing me to come back. She keeps saying that we will negotiate these individual rules on the electricity market, but the EU's negotiating proposals say:

> "The agreement should ensure the dynamic alignment of the laws of the United Kingdom with the rules of the Union on the promotion of renewable energy … and … provide for their simultaneous application in the United Kingdom".

There is no question of subsequent negotiation.

Baroness Curran (Lab): I have made it clear that that will be part of the negotiations and that the negotiations are ongoing. I am asserting very clearly that, when this UK Government are undertaking those negotiations, we will assert the UK interest, and we will not sign up to or agree to anything that we do not believe to be the UK's interests. We believe in partnership. One thing I would say to the noble Lord is that I clearly have a misunderstanding of Brexit, because I understood that Brexit did not prohibit further negotiations and further agreement with our European partners. It is

[Baroness Curran]
quite disturbing that every time questions such as this come up in this House, it is as though we have to turn our back on our partners—no negotiation, no joint partnership—because every single time there is agreement or negotiation, the noble Lord raises questions and opposes it.

Settled Migrants: Economic Contribution to UK

Question

3.09 pm

Asked by ***Lord Moraes***

To ask His Majesty's Government what calculation they have made of the net annual economic contribution to the UK of settled migrants, in particular those with indefinite leave to remain.

The Deputy Leader of the House of Lords (Lord Collins of Highbury) (Lab): My Lords, the Migration Advisory Committee has published estimates of the static and lifetime fiscal impact of migrants in the United Kingdom on work and family routes. Settlement grants migrants the right to remain in the United Kingdom indefinitely, without conditions on accessing the labour market and public funds. Therefore, it is right to consider the fiscal contribution of migrants with settlement over their lifetime, rather than a shorter period.

Lord Moraes (Lab): I thank my noble friend for that Answer. He may be aware that the Home Affairs Committee was written to by Home Office officials confirming a net fiscal benefit of ILR recipients up to year 25—a kind of long medium-term point. Will these contributions, and the fact that those on ILR work disproportionately in sectors such as adult social care and the NHS, feature in final decisions on the fairer pathway to settlement consultation, which are to be made soon?

Lord Collins of Highbury (Lab): My noble friend rightly points out that the proposals for an earned settlement model were set out in *A Fairer Pathway to Settlement*, published in November 2025. The consultation closed in February and there have been over 200,000 responses. Those responses are being analysed by the Government and the final earned settlement arrangements will be announced in due course, so I cannot predict that. However, he is right about how the calculations regarding the contributions are worked out, which is what the Migration Advisory Committee set out. They vary quite substantially between different cohorts, which will no doubt be considered in the final outcome when the Government consider the consultation.

Baroness Hamwee (LD): My Lords, does the Minister agree that it is the very resilience of many immigrants that makes them successful entrepreneurs, bringing benefits to them individually and to all of us as a society?

Lord Collins of Highbury (Lab): There is no doubt that migration has a positive effect and a positive economic effect. What the Home Secretary was attempting to say in her recent speech to the Labour Party conference is that the role of the Government is to make the country fair. Fairness is what unites us as a country. The approach that she has taken, which is one taken by other countries, is to ensure that we win public confidence in the immigration system. We acknowledge that settlement allows migrants to claim support from public funds and seek work without sponsorship, and we need to be fair on those issues. The noble Baroness is right that there has been a huge positive impact on our economy from migration. All of us in this Chamber, I suspect, have predecessors who have been migrants at one point or another.

Lord Kirkhope of Harrogate (Con): My Lords, it is important that the noble Lord, Lord Moraes, raised this Question, because it is a fact that Governments in this country can determine, under the Immigration Rules, the categories and types of people whom we would like to see here, but also take into account the mutual benefit of having certain people in this country. We have benefited enormously from the rules when they have been well applied. I hope the Minister will acknowledge that, as the choice is that of the Government, they will continue to make choices that are to our mutual benefit, and where we can see that migrants coming to this country contribute fully and positively to our economy and society.

Lord Collins of Highbury (Lab): The noble Lord is absolutely right. To amplify the point that my noble friend raised, the MAC found that there is undoubtedly significant variation in migrants' lifetime fiscal contribution depending on their salary and wider characteristics. For example, those arriving via the skilled worker route were estimated to make a larger lifetime contribution, of positive £689,000, than those in a lower category of occupation, care provision, where it is negative £36,000. Even within the health service, we have the huge positive impact of doctors and nurses as well. That is a very positive impact in terms of the economic benefit to the country as a whole.

Lord Londesborough (CB): My Lords, employers in sectors such as hospitality, retail and social care will tell you that they would cease to function without the ability to hire productive migrant workers. That is an inconvenient truth for the far-right nationalists who claim that migrants are stealing jobs from UK-born workers. Does the Minister agree that, with an ageing population and a plummeting birth rate, our heavy dependency on migrant workers looks set to grow further rather than to decline?

Lord Collins of Highbury (Lab): I am really tempted to get into a debate about Brexit, but I will not. The simple fact is that there was an unprecedented level of migration to the United Kingdom between 2021 and 2025. That will undoubtedly lead to significant numbers wanting settlement, which is why this Government are looking at the situation and at fairness within that settlement. There is no doubt that, during the period when we were seeking to fill vacancies in the care sector in particular, the system was pretty chaotic, and we are now having to deal with the consequences.

Lord Davies of Gower (Con): My Lords, there has been much speculation over the past few months about whether the Government are planning to water down the reforms to indefinite to remain. We on these Benches

have offered to give the Government our support in Parliament to help push through the urgently needed, if imperfect, reforms announced last year. Can the Minister assure the House that the Government will proceed with these urgently needed reforms as originally planned?

Lord Collins of Highbury (Lab): As I said in my response, we have had a proper consultation. We have had over 200,000 responses. We will consider those responses as a whole and then come up with a plan. I appreciate the noble Lord's commitment to co-operate and welcome it very much, but I would appreciate a bit of acknowledgement that his Government were the cause of the problem.

Lord Watts (Lab): My Lords, is it not the case that we need to have balance here—

Baroness Chakrabarti (Lab): My Lords, excuse me, but may I take—

Lord Watts (Lab): Well, excuse me as well.

Baroness Chakrabarti (Lab): My Lords, I take this opportunity to pay tribute to my noble friend Lord Moraes for decades of evidence-based and compassionate contributions to this debate. I might add the noble Lord, Lord Kirkhope, to those congratulations. However, we have been swimming against the tide in this debate. In the light of last night's shocking revelations on ITV about the way that this debate is conducted within the Reform Party, does my noble friend the Minister agree that it is more important than ever that parties represented in this House conduct the debate in the way suggested by my noble friend Lord Moraes and the noble Lord, Lord Kirkhope?

Lord Collins of Highbury (Lab): I thank my noble friend for that. I think the debate across the Chamber has been a moderate one, which is absolutely right. The important thing is that we are talking about an earned settlement process and understanding the reasons why we need to introduce it. There have been significant challenges with migration—I gave the House the figures. We are going to see a spike. One of the things that has changed dramatically is that the number of migrants coming in with dependents has increased substantially. That is going to be an issue we need to consider. Every economy in the world allows migrants to come in to address labour shortages and other issues in the economy, including the United States. The US has not put up a barrier to that because it knows the consequences of doing so. We should not see migration as a negative. It is a positive in its economic and cultural impacts.

Lord Purvis of Tweed (LD): My Lords, I hope all parts of the House recognise that one of the communities who make a huge contribution to the UK are those from Hong Kong, many of whom have suffered real persecution there. Worryingly, we have heard that some applicants for BNO visas from Hong Kong are being refused access to the United Kingdom because of prior convictions purely from protesting against the repression of the Chinese Government. Can the Minister confirm to this House that applications on that basis will not be refused and that they will be able to have sanctuary here in the United Kingdom?

Lord Collins of Highbury (Lab): The process for applications is very clear and it is conducted fairly and equitably by the Home Office, so I am not going to comment on individual circumstances. The noble Lord may tempt me to do so, but all BNOs can apply and their applications will be considered in the same way.

BBC Licence Fee: Streaming Services

Private Notice Question

3.20 pm

Asked by ***Lord Hunt of Wirral***

To ask His Majesty's Government what plans they have, if any, to extend the scope of the BBC licence fee to households using streaming services; and what assessment they have made of the impact of any such change on (1) household bills, (2) consumer choice, (3) investment and (4) the creative industry.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Mackenzie of Sherwood) (Lab): My Lords, as noble Lords are aware, the ongoing charter review is considering how to secure the BBC's long-term future, including by putting its funding model on a sustainable footing. As set out in the Green Paper, the Government are keeping an open mind on all options, including considering reforms to the licence fee. Among the things that the Government are considering as part of the charter review process is indeed the impact on households, consumer choice, investment and the wider creative economy. The Government will set out their decisions in the White Paper by the end of the year.

Lord Hunt of Wirral (Con): My Lords, yet again, we are seeing significant government policy being floated in the media before Parliament has been given any clarity at all. That was criticised previously and repeatedly under the previous Prime Minister. The Ministerial Code is clear that major policy announcements should be made first to Parliament when Parliament is in session. Whatever the merits of this proposal, potentially 4 million households could be affected. Can the Minister therefore give the House some certainty today? Are the Government considering extending the licence fee to households that currently use only streaming services? What options are on the table and when will Parliament be given a full statement on the Government's plans?

Baroness Mackenzie of Sherwood (Lab): I thank the noble Lord for his question. Of course, I agree that it is the job of the Government to share any major policy decisions first in the two Houses of Parliament. With regret, I am unable to answer the rest of the noble Lord's question because, as I have said, the process of consideration is ongoing, and the results of the consideration will be published in a White Paper by the end of the year.

Baroness Royall of Blaisdon (Lab): The noble Lord opposite makes a valid point about protecting household budgets, but does my noble friend the Minister agree that the BBC also needs sustainable funding? It is a very worthwhile investment for our country, given that it contributes £6.7 billion to the UK economy every year, supporting 77,000 jobs in the UK. It also performs a great duty in terms of social cohesion.

Baroness Mackenzie of Sherwood (Lab): I thank my noble friend for that question. Of course, the Government believe that the BBC is vital to the country, the households that continue to enjoy it, and the 467 million people globally who appreciate and trust BBC News services, and that it is very important that we find a long-term, sustainable way to secure the future of the BBC. That will involve, and is involving, looking at a range of options to find a way in which we can support the BBC—of course—but also encourage and incentivise the BBC to look at commercial options and at diversifying its income sources.

Lord Grade of Yarmouth (Con): I declare my previous interests. I am very happy to see the noble Baroness opposite in her place. We had the dubious and mixed pleasure of sitting together on the board of the New Millennium Experience Company—the Dome—leading up to the millennium. I will move away from the specifics to the principles behind the Government's policy. Does the Minister agree with me that there are three principles that should underlie the Government's policy for the BBC? One is that the BBC will not be put into competition for revenue. The second is that any new arrangement will be progressive, unlike the regressive nature of the licence fee, and will reflect people's ability to pay. Thirdly, and perhaps most importantly, is that the cost of the public investment in the BBC will reduce materially in future.

Baroness Mackenzie of Sherwood (Lab): I thank the noble Lord for taking me back to the not entirely happy memories of being on the board of the Dome. I should say, for the record, that the Dome achieved over 6 million visitors and created a lasting legacy, which is now thriving as a commercial enterprise—but that is not the topic for today.

I thank the noble Lord for his principles. While I am not trying to pre-empt any of the findings that will be revealed in the White Paper at the end of the year —I apologise, as I am going to be repeating that point several times, I fear—I would like to comment. I start with the last, very important point that the noble Lord made. It is the case that the licence fee has been declining significantly over the past decade, and that has been one major source of challenge for the BBC. I do not think that I can yet say whether the changes published in the White Paper at the end of the year will explicitly meet the noble Lord's point about avoiding a regressive source of public funding. Of course, the Secretary of State is on record as saying that the role of public funding continues to be a vital part of the vision for the future of the BBC. I would just question whether avoiding competitive finance is a rule that applies on all possible occasions. I can imagine some scenarios whereby it is of benefit to the BBC to be in a competitive environment and it can gain from that process, but that is not in any way to pre-empt any decision.

Lord Addington (LD): When we are looking at this, can the Government give us some idea whether they are considering making those who set the level of financing generated from the public a more independent body? This has become a political football, to be kicked hard and often into the long grass. Also, if a lot of these streamers and other services use BBC resources for news and reporting, would it not be a good idea if the Government opened up the door to saying that they should pay something for those services?

Baroness Mackenzie of Sherwood (Lab): I thank the noble Lord for two very interesting questions. Of course, it is the case that regulation of the BBC is independent; that is a very important principle dear to this Government. Ofcom, as we know, is the independent regulator. I will take back his suggestion that setting the level of settlement for the charter review should also be given to an independent body; that is a very interesting thought, which I shall reflect on more and share with colleagues. Similarly, it is the case that streamers can use the resources of the BBC without paying for those services; that is something that can be considered in the options that lead up to the White Paper at the end of the year.

Baroness Wheatcroft (CB): My Lords, in drawing up the White Paper, will the Government pay particular attention to the increasingly important role of the BBC in promoting local democracy through backing local news at a time when local newspapers are vanishing from the scene and the Government are pushing more and more decision-making down the track through devolution? It is increasingly important that the BBC's local democracy initiative is given adequate funding.

Baroness Mackenzie of Sherwood (Lab): I thank the noble Baroness for that important point, which applies not only to local news and local BBC services but to BBC services in the devolved nations, where the funding is equally vital.

Baroness Stowell of Beeston (Con): Does the Minister agree that seeking to expand the definition of "usage" to justify a compulsory licence fee is misplaced, especially when trust in the BBC among some sections of the public is going down and some people are turning away from the BBC? As part of its charter discussion, has the department requested access to public trust data from the BBC that shows how it performs among different demographic groups? If not, will the Minister commit to doing so and to taking account of that in any decision that is made about future funding of the BBC?

Baroness Mackenzie of Sherwood (Lab): I thank the noble Baroness, who is right to say that trust in the BBC has declined, but it is still at 59% of UK respondents, which makes it the UK's most trusted news brand. In a context of diversification, one could fairly say that that is an admirable achievement on the BBC's part. I would have to consult with colleagues on the question about the collection of data and I commit to getting back to the noble Baroness on that point.

Baroness Hussein-Ece (LD): My Lords, first, does the Minister agree that the most important thing is that the BBC is funded properly and that that funding is sustainable, especially given that we are on the front line of global misinformation? Secondly, how best can it engage more with young people?

Baroness Mackenzie of Sherwood (Lab): I absolutely agree that the key priority is to ensure that the White Paper produces an option that gives the BBC funding that will enable it to be sustainable and to thrive, not simply to survive—that is the most important task faced by the Government.

Baroness Caine of Kentish Town (Lab): Does my noble friend the Minister agree that the TV licence fee is a misnomer, as over 80% of people in this country access the BBC's resources in one way or another? Does she welcome the DCMS Select Committee's report on this issue, and this House's Communications and Digital Committee's letter and annexe, both of which recognise the centrality and growing importance of the BBC's offer in this complex world, and the importance of supporting it financially to deliver its role?

Baroness Mackenzie of Sherwood (Lab): I thank my noble friend. I am very happy to say that we welcome the findings of the DCMS Select Committee and this House's Select Committee, and that we agree with the centrality of the BBC and its role in the present and in the foreseeable future.

Baroness Hoey (Non-Afl): My Lords, one thing that upsets local people and families when they are paying the licence fee and not earning very much is seeing the huge salaries that some people within the BBC get. It is outrageous. If we are paying for it through public money, will there be anything in the White Paper that will direct the BBC so it cannot go on giving these huge salaries to some people within the BBC?

Baroness Mackenzie of Sherwood (Lab): It is important to state that the BBC is operationally independent from the Government and, on the arm's-length principle that I hope we all agree on, it is vital that it should be independent. The BBC is working in a commercial, fast-expanding and diversifying market of content production and public service, and it is vital that it makes the decisions that it needs to make operationally—not the Government.

Lord Mohammed of Tinsley (LD): My Lords, at a time when local news is under threat, particularly from independent publications, the value of local democracy correspondents and reporters, often funded by the BBC, has been huge. I can say that for South Yorkshire; I am sure that noble Lords across the House will also say that. Will the Minister commit to safeguarding at least those local democracy reporters because they provide an invaluable service at a local level that is fast disappearing from those independent publications?

Baroness Mackenzie of Sherwood (Lab): I cannot commit to anything in advance of the White Paper, but I am happy to agree with the importance of the local news the BBC provides for communities as a way of supporting and nourishing local democracy and discussion. As I said previously, we should extend this to the vital services that the BBC provides in the devolved nations.

Lord Brooke of Alverthorpe (Lab): My Lords, when we hear about the data on trust that may be established by research among the public, and the Minister undertook to go back, maybe we ought to explore the data relating to trust in Sky and the commercial sector. I am paying under £200 a year to the BBC, but £1,000 a year now to Sky. I hear from the man and woman in the street that this is the area they are most concerned about, not the BBC.

Baroness Mackenzie of Sherwood (Lab): I thank my noble friend for that question. Perhaps I might humbly suggest that for every household and customer, there is a choice: there is always the choice to decide not to pay for the service. One possible solution to the issue of whether or not my noble friend regards Sky as offering value for money is to take his money elsewhere.

Sustainable Farming Incentive

Commons Urgent Question

3.37 pm

The following Answer to an Urgent Question was given in the House of Commons on Thursday 15 October.

"In summer 2024, we inherited a sustainable farming incentive scheme from the previous Conservative Government that had no budget control and no proper alignment of SFI actions to environmental sustainability targets. The farming schemes were underspent, meaning that millions of pounds were not going to farming businesses.

This Government implemented many improvements to the sustainable farming incentive 2026 to make it more focused, more transparent and fairer, so that as many farmers as possible could benefit from agreements. For example, we introduced the new rule that each farm business could have only one SFI26 agreement, which cannot exceed £100,000 per year. We also streamlined the number of SFI actions to remove complexity while still having plenty of actions available for all farm types.

We held the first application window earlier in the summer, which was open only to two groups: small farms and farms without existing environmental land management revenue agreements. Window 2 of the sustainable farming incentive 2026 opened on the morning of Tuesday 22 September 2026 and closed at 3.48 pm on the same day. It was open to all farmers and land managers with at least three hectares of agricultural land.

I recognise that some farmers who wanted to join SFI26 will be disappointed not to have secured an agreement this year. There was exceptional demand for SFI26, which demonstrates farmers' desire to invest in the environment, because healthy soils and thriving habitats are fundamental to farm profitability, productivity, sustainability and resilience.

In anticipation of high demand, we allocated an additional £20 million to window 2 on top of the £50 million announced by the Prime Minister in August so that we could fund as many agreements as possible. We have therefore allocated a total of £310 million to nearly 19,000 new agreements across both application windows in SFI26, including £253 million and 12,200 new agreements through window 2.

We now have 70,000 multiyear environmental land management scheme agreements in place. Those agreements will invest a total of £930 million in environmentally sustainable farming over the next three years. That is nearly £1 billion of investment in nature-friendly farming as part of £11.8 billion in funding for sustainable farming in this Parliament.

We plan to offer an SFI scheme in 2027, and we will look to open the 2027 offer as early as possible to ensure that farmers can access funding. We are already looking to make changes to improve the SFI for next year, continuing our close work with farmers and stakeholders by listening to experiences and learning lessons from this window.

In keeping with the commitments made in *Farming Roadmap 2050*, we plan to offer an SFI scheme in 2027. As part of that, we will scrap the first come, first served application process. We will look to open the 2027 window as early as possible to ensure that farmers can access funding and we will work with farming representative organisations including the National Farmers' Union to consider how we refine the scheme for SFI27. As set out in the farming road map published earlier this year, the Government are committed to a farming sector that is productive, profitable and resilient".

Lord Roborough (Con): My Lords, I am grateful to the Minister for taking this Question and I declare my interest as a farmer in receipt of environmental payments. The allocation of limited SFI funds to farmers with the fastest reaction time, rather than to the most impactful applications or greatest need, is disappointing. This lottery underscores the urgency of moving to longer-term, predictable ecosystem service schemes that deliver the best outcomes and improve incentives to land managers by bringing in private sector finance. Given the glacial progress of developing these schemes, does the Minister believe the unwieldly Defra structure with 34 ALBs is fit for purpose?

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Baroness Hayman of Ullock) (Lab): I am sure the noble Lord is aware that we have had a full review of Defra ALBs recently through the Corry report. We are looking at how we can improve their effectiveness and efficiency, and that is ongoing work. There was only a short window before SFI applications came to an end; in window 2, however, the application system did actually deal with unprecedented levels of demand and 12,500 farmers managed to apply before the budget was allocated. Many farmers, therefore, got an SFI allocation opportunity.

Baroness Grender (LD): My Lords, does the Minister agree that the outcome in September was foreseeable? An independent estimate predicted some 40,000 applications, against funding for around 15,000. When the chair of the Environment, Food and Rural Affairs Committee asked in the House of Commons on Thursday whether the department expected so many to be disappointed, he received no answer to his question. Will the Minister tell this House how many applications Defra expected and why farmers were not warned that many of them would be disappointed?

Baroness Hayman of Ullock (Lab): I do recognise that many of the farmers who wanted to join SFI26 will have been disappointed not to have secured an agreement. Clearly, in Defra, we are reviewing how the process works, how to open up the next window of SFI and how that will operate.

As opposed to window 1, window 2 was open to all eligible farmers and land managers and we recognised that the demand could be high. Because of that, in August, the Prime Minister announced that there would be an extra £50 million for SFI26 window 2, and then the Secretary of State in Defra added a further £20 million ahead of window 2 opening, which took the total budget to £310 million, in order to help more farmers access support. That was done because we recognised there was going to be high demand.

Lord Gardiner of Kimble (Con): My Lords, I declare my farming interests as set out in the register. What is the Minister's advice to the majority of farmers, who did not have a successful application? If we want to farm for food and enhance the environment, we need to have a comprehensive system in order that many more farmers can get involved in what is a very important project.

Baroness Hayman of Ullock (Lab): The noble Lord makes a good point; we absolutely need to get as many farmers involved in sustainable farming and farming for the environment, as well as for profitability and food security. There are still other funding opportunities available to farmers, such as the Countryside Stewardship scheme, the Farming in Protected Landscapes scheme and the ELM capital grants offer. Those are still open. It is important to say that, this year, we allocated a total of £310 million to nearly 19,000 new agreements across both application windows, and we also now have 70,000 multi-environmental land management revenue agreements in place across all the schemes, and that is part of £11.8 billion funding for sustainable farming during this Parliament, which is a huge sum of money and more than has been allocated before.

Baroness Bennett of Manor Castle (GP): My Lords, with aphids, gout fly and leafhoppers emerging in the new emerging cereal crops, reports suggest that some, and maybe a significant number of, farmers who signed up for the SFI no-insecticide option are looking at abandoning it because of the disease and pest risk. Does the Minister acknowledge that the Government need to consider providing far more support to farmers to be able to make these sustainable initiatives, build crop diversity and move away from the mass commodity crops that are so vulnerable to these pests and diseases?

Baroness Hayman of Ullock (Lab): As I am sure the noble Baroness is aware, an awful lot of work is going on around the issue of crop pests and diseases. There is funding through grants from Defra and also innovation funding, which can help with the way pesticides are used and encourage the use of different crop management. It is also important to talk about the fact that the Government are still very keen to move forward with genetic engineering, which can also help to create more disease-resistant crops.

Lord Teverson (LD): My Lords, I fully agree with the use of ELMS, the way it has been approached and the SFI. Although many people think we do not spend enough money on it, a lot of public money still goes into these schemes. In, say, five years' time, how will we assess that these schemes have actually delivered the environmental and nature effects that we all want them to?

Baroness Hayman of Ullock (Lab): Obviously, Defra reviews that. We get figures and we look at how the money we are spending is having a direct impact on nature. I am sure the noble Lord is aware that there are regular figures around things such as invasive species, biodiversity and nature-friendly farming. Defra has also recently published its *Farming Annual Report*, which explains how the Government supported farmers this year. We will continue to do that, and that will also provide transparent information about what money we are providing and how it is being spent.

The Lord Bishop of Hereford: My Lords, there is no doubt that the recent application window caused very significant distress to many in the farming community. Can the Minister tell the House what lessons have been learned from the last funding round and what will be different in the next funding round in 2027?

Baroness Hayman of Ullock (Lab): The important thing to note here is that we recognise that this has caused a great deal of stress for many farmers and that that has mental health impacts. We have been working very closely with the farming community, including the NFU—I am meeting a farmer this afternoon—to look at the impacts of that. We provide mental health support to farmers, but we also need to recognise the reasons for that, so the right reverend Prelate made an important point. We are currently looking at how we can improve the SFI offers going forward so we do not end up in this situation again. One of the things we have pledged to do is move away from the first come, first served approach.

Baroness McIntosh of Pickering (Con): My Lords, the Minister will be aware that, in the farming community, there is concern that the administration of the SFI was skewed towards large farmers, against the interests of small and tenant farmers. Given that a lot of tenanted land has been taken out of production for green energy projects, what specific support are the Government giving to tenant farmers, in particular to farmers on common land?

Baroness Hayman of Ullock (Lab): We work very closely with the Tenant Farmers Association—I work in particular in Cumbria—on how we can better support common-land farmers. They were not eligible for the SFI, so we have been working with the RPA to see how we can improve that. It is important to point out that we are talking about window 2; window 1 was open only to people without agreements and who had smaller farms. The reason for that is that, previously, 4% of farms took a quarter of the SFI money. That is why we wanted to encourage more small farmers to come forward and to give them that early opportunity, which is why they were eligible for part 1.

Baroness Batters (CB): My Lords, I declare my interest as set out in the register. I wonder about two things. In the last Parliament, the moneys were delinked from farming to allow everybody to access public money. Can the Minister highlight whether there are plans to—as per the Agriculture Act—link the moneys to active farmers: people who are producing the food and taking the risk? Further, are there plans to have a budget that will allow all farmers to access those funds?

Baroness Hayman of Ullock (Lab): I know that the noble Baroness has a particular interest in this and I thank her for all the work she has done with Defra; it has been incredibly valuable. I cannot directly answer the noble Baroness's question. All I can say is that she makes some very important points about active farming that Defra is very interested in. We are currently looking very carefully at the way the SFI has operated up until now, because the more fit for purpose we can make it, the more it can get to the farmers who need it the most, the more it will have the outcomes we in Defra want to see, and the better we will be spending public money.

Public Office (Accountability) Bill

Committee (2nd Day)

Welsh legislative consent granted, Northern Ireland and Scottish legislative consent sought.

3.48 pm

Amendment 31

Moved by ***Baroness Brinton***

31: After Clause 7, insert the following Clause—

"Offence of wilfully destroying information or records relevant to an inquiry or investigation

(1) A public authority or public official commits an offence if—

(a) they deliberately destroy relevant information or records which are or may be relevant to an inquiry, investigation, or inquest, and

(b) they know that, or are reckless as to whether, the information is relevant to or required by an inquiry, investigation, or inquest.

(2) A public official who commits an offence under this section is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);

(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both);

(d) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both)."

Member's explanatory statement

This new clause introduces an offence for wilfully destroying relevant records after a major incident that may lead to an inquiry or inquest.

Baroness Brinton (LD): My Lords, on the first day of Committee we discussed amendments to ensure that records, physical and digital, are explicitly added to the application of the duty of candour, because we know there have been a number of egregious cases where information was hidden. For example, I spoke of the nuclear veterans' medical records that had been hidden in a Ministry of Defence storage centre—hidden because nobody knew they were there, and they were not on any index. One of the reasons the Bill is necessary is that there are too many cases of public officials, regardless of department or organisation, trying to hide or even destroy key information that would demonstrate clear intention to mislead.

In July 2025, Andy Burnham, at that point still Mayor of Manchester and a passionate supporter of justice for the Hillsborough law, said that parts of Whitehall were

"fighting hard to preserve the status quo".

Even then, he felt that Ministers and civil servants were misleading the public with "false" and "unfounded" claims about the then proposed legislation that has now changed positively into this Bill. It is now much clearer and stronger. The former Prime Minister, Sir Keir Starmer, and our new Prime Minister, Andy Burnham, agreed that introducing criminal sanctions for dishonesty was key to making this Bill work.

However, I agree with our new PM that there is still an issue with the culture of the status quo. For decades, at its worst, including in recent years, this has included some public officials—those who would be accountable under the terms of this Bill—who have destroyed information that would have been important evidence for inquiries, inquests and investigations, especially police investigations.

My Amendment 31, signed by my noble friend Lady Hamwee, creates the offence of destruction of information or records that are relevant to an inquiry, investigation or inquest. It is a stand-alone clause that says that a public authority or public official commits the offence not just if they deliberately destroy information or records that would be relevant, but if

"they know that, or are reckless as to whether, the information is relevant to or required by an inquiry, investigation, or inquest".

Subsection (2) of the proposed new clause then sets out that the offence under this clause is, upon conviction, liable to imprisonment for a term not exceeding the general limit in a magistrates' court in England and Wales—not exceeding 12 months in Scotland or six months in Northern Ireland—and, on conviction and indictment, to imprisonment for a term not exceeding two years. Each of these sub-categories is liable to a fine, or imprisonment and a fine.

It is vital to specify the details of this crime—including "recklessness", a phrase used earlier in the Bill—because of the history of behaviour of certain public officials who have destroyed information. That has not only re-victimised the victims because the evidence could not be produced at inquiries or investigations, but it has too frequently meant a delay to justice. This delay has cost the victims and the nation through scandal after scandal and successive inquiries on the same issue. It has also cost the state considerably more in the costs of inquiries and appropriate compensation to the victims, which was delayed.

Volume 7 of Sir Brian Langstaff's infected blood inquiry report has an entire chapter on the disappearance and/or destruction of documents over the many decades. There is a box on page 2 summarising how documents were destroyed over the years and then denied. In 1988, Lord Owen's files record that the destruction of his paper by the Department of Health was:

"Normal procedure after 10 years".

We will return to that in a minute. The report continues. From 1990-91,

"relevant documents are identified as missing during the HIV litigation. February-March 1993: registered GEB/1 files relating to ACVSB sent to the DRO. September 1994: registered file GEB/1 volume 4 is destroyed in advance of its review date. June 1995: Dr Rejman notifies Solicitor's Division that one of the ACVSB files 'has apparently been destroyed'. May 1996: documents relating to the settled HIV litigation are identified as missing. October 1997-November 1998: remaining GEB/1 volumes are destroyed. April 2000: the report of the internal audit of missing ACVSB documents. March 2004: Department of Health informs Lord Owen that its review into self-sufficiency 'does not address why papers from your Private Office at the time may have been destroyed'. April 2005: meeting between Nigel Crisp and Lord Jenkin to discuss missing papers".

I have quoted those headings at length to demonstrate that this is not just a one-off error of destroying papers too early—this is a culture of destroying important information. This list does not even cover many of the doctors' own files and patient files that were quietly destroyed as it became clear at the turn of the 1980s that illegal blood products research had been carried out on children without either their or their parents' consent. The first infections happened in the 1970s. The known destruction of documents started in 1988. That destruction of papers has cost Governments in this decade billions of pounds.

Then there is Hillsborough. The Lord Justice Taylor report was about the arrangements on the day of Hillsborough and did not focus on the behaviour of the police, although he did have some concerns about that. However, the report of the Hillsborough Independent Panel, published a quarter of a century later, was able to remedy this, and Chapter 11 starts at paragraph 2.11.1, saying that

"statements made by South Yorkshire Police (SYP) officers in the form of handwritten recollections of their experiences on the day of the disaster underwent an unprecedented process of review and alteration before their submission to the official inquiry"—

namely, Lord Taylor and his inquiry. At paragraph 2.11.6 it says:

"In contrast to their professional training, officers were instructed not to record their experiences in pocket books and 'anyone who was involved yesterday take time to sit down and make some notes'. The briefing officer asked if officers had 'made a pocket book brief'. None had. The briefing officer continued: 'Do not start making

pocket book entries. Yesterday was the most traumatic experience of my life and large chunks of it I cannot remember. I am sure it must be the same for many of you'".

Both of these two egregious examples demonstrate actions by individual public officials as well as their corporate organisational behaviour.

Last year, Inquest's report on the Hillsborough law family listening day, known as *All or Nothing*, powerfully set out how key the destruction of evidence was for the victims and their families. One Hillsborough family member said their loved one

"was not afforded the truth he should have been. It was traumatic. It [the inquest] should have been the end".

It was not.

As well as in the Hillsborough tragedy, the destruction, hiding or changing of evidence is key to the Post Office Horizon scandal, the Covid inquiry, the nuclear test veterans, the infected blood scandal and many more. This is not a one-off; this is cultural. We cannot have the further destruction or hiding of evidence. That is why this amendment would make it clear to public officials, public organisations and, above all, the public that this must change. I beg to move.

Lord Alton of Liverpool (CB): My Lords, I support Amendment 31, in the name of the noble Baroness, Lady Brinton, and Amendment 82, in the name of the noble and learned Lord, Lord Keen of Elie. The noble Baroness has made a very compelling case. I would like to delve deeper into two of the examples which she has given to the Committee this afternoon. One concerns, of course, the Hillsborough disaster itself, but the other concerns British service personnel who were exposed to radiation during atomic tests.

One reason why, in 1989, I tabled a Parliamentary Question in another place to establish what warnings had been given before the football match at Hillsborough on 15 April, when Liverpool and Nottingham Forest were drawn to play in the FA Cup semi-final, was that I was worried that the letter which I had sent to the Sports Minister before the match on 22 March would disappear into the ether. I was glad that an archive such as *Hansard* would ensure that that would not take place. It records that:

"The hon. Member wrote to me on 22 March about the arrangements at the FA Cup semi-final at Hillsborough on 15 April. No other representation was received. The arrangements for the match will be among the matters to be considered by Lord Justice Taylor's inquiry".—[*Official Report*, Commons, 24/4/1989; col. 414W.]

That I was right to have worried that important information would disappear or that records would be destroyed or altered was more than borne out in the decades which followed, with the destruction, falsification and alteration or withholding of records. There were decades of dissimulation and decades of deceit. Outrageously, that became a hallmark of the response to Hillsborough, until, finally, it was exposed how crucial evidence was either destroyed, altered or hidden from official oversight.

4 pm

Recall that Ken Sutton, one of the officials involved with the Hillsborough Independent Panel, testified that when they requested original police notebooks from the South Yorkshire Police, they were explicitly told that they "no longer existed". Years later, during the statutory inquest, these same notebooks magically reappeared, with no explanation provided for why they were previously withheld.

Last week, during our proceedings in Committee, I referred to the systematic altering of police statements: 164 police officer statements were altered. Content that criticised senior police command, highlighted faulty police radio communications or mentioned historical stadium safety issues was intentionally crossed out and deleted before being forwarded to the original Taylor inquiry. Note, too, that unverified allegations and outright calumny regarding the behaviour of Liverpool fans were left intact and framed as facts.

Concealment went to the highest levels of Government, with the Cabinet Office restricting access to vital records. In 2009, a freedom of information request by the BBC, seeking minutes of meetings and briefings provided to the Prime Minister in April 1989, was refused by the Cabinet Office, citing policy formulation exemptions to keep the files hidden from public view.

In 1989, I asked a Home Office Minister

"at what level the publication of statements on 18 April by South Yorkshire police concerning the conduct of Liverpool fans at the Hillsborough semi-cup final was authorised",

and if he would

"publish a copy of that statement and the name of the officer who made it; and … make a statement".

I received this reply:

"Statements made by officers of the South Yorkshire police are a matter for the chief constable. It would not be helpful for me to publish statements or counter-statements which have been made about the circumstances leading to the tragedy, or to name those who made them. It is for Lord Justice Taylor's inquiry to establish the facts". —[*Official Report*, Commons, 24/4/1989; col. 404W.]

The names of the officers who gave the authorisation were not made known. The falsehoods were allowed to stand. Taylor did not establish the facts, nor did he discover the truth. It was left to the grieving families to continue to demand answers and to insist that justice should be done.

As the years went by, I made repeated requests for the legal cases to be reopened. In June 1992, the then Solicitor-General, Sir Derek Spencer, responded that the Attorney-General would

"take a decision on an outstanding formal application for consent under section 13 of the Coroners Act 1988 as soon as possible".—[*Official Report*, Commons, 15/6/1992; col. 644.]

Three years had already elapsed since the tragedy. If Ministers had acted in 1992, telling the coroner to reopen the case, it would not have become possible to hide behind the excuse that "the passage of time" impeded accurate recall of the details of what had occurred.

In 1998, in your Lordships' House, I asked what account the Home Secretary and Lord Justice Stuart-Smith had taken

"in deciding against a fresh inquiry into the Hillsborough tragedy, of missing video tapes, changed statements by police officers, conflicting medical evidence and complaints of lack of impartiality in the original coroner's process and in the granting of immunity from prosecution to police officers upon taking early retirement".

The Minister replied:

"Lord Justice Stuart-Smith considered all the material evidence submitted to his scrutiny about the Hillsborough disaster. My right honourable friend the Home Secretary"—

[Lord Alton of Liverpool]

Jack Straw—

"accepted his conclusion that there were no grounds for a fresh inquiry".

The Minister told us that

"there was no new video evidence and the only missing video tapes were two tapes stolen on the day of the disaster, which remain missing. They were not police tapes and the judge was satisfied that they would not have shown anything significant".

The Minister said that

"allegations of irregularity and malpractice are not substantiated"

and that the Lord Justice Stuart-Smith

"found no grounds to suggest that the original inquests were flawed or that complaints of bias against the Coroner were justified".—[*Official Report*, 23/3/1998; col. WA 232-33.]

No substantial irregularities and no malpractice—of course, we all know otherwise now.

As Prime Minister David Cameron then told Parliament, the Liverpool fans had suffered a "double injustice" in both

"the failure of the state to protect their loved ones and the indefensible wait to get to the truth".

In offering a full apology, he also admonished those who had denigrated

"the deceased—that they were somehow at fault for their own deaths".—[*Official Report*, Commons, 12/9/12; col. 286.]

In 2012, the Hillsborough independent panel report, led by Bishop James Jones, made nine recommendations on systemic archive reform that would prevent future destruction of critical records. These amendments underpin that.

I will simply turn to another example; I will not do so at great length. Back in the 1980s, I raised the position of former British servicemen who had been caught up in the atomic tests that had taken place on Christmas Island and in places such as Maralinga in Western Australia. I have taken the trouble to print off the speeches. It is notable that—I can perhaps say this as someone who once served as a Chief Whip—organising government business is always in the hands of the Government of the day. It was not really surprising then that just a handful of us attended those debates: one took place at 3.49 am and another at 4.31 am.

Truths can be buried in different ways. Nevertheless, the archives substantiate many of the complaints that have been made over the years about the destruction of records and the refusal to provide information to those who sought to achieve justice in their own cases. During those debates in the 1980s, I said that the then Minister's failure to release all the data

"will run the risk of being accused of cooking the books".—[*Official Report*, Commons, 25/7/1983; col. 957.]

I complained about attempts to push the issue into the long grass and the commissioning of a survey by an organisation that veterans themselves believed would serve the department's interests rather than the pursuit of truth.

Anyone who saw Victoria Derbyshire interviewing the former Veterans Minister on 2 September this year would have been shocked to hear him say that he had misled Parliament in 2018, when he had been given false information by the Ministry of Defence that no such radiological monitoring records existed. He described that as "an absolute cover-up" designed to delay the truth until the ageing veterans died.

So these amendments matter. They are about these situations—the atomic test victims and Hillsborough—but also about the infected blood scandal, Primodos, Horizon, the Post Office and many other instances. Records matter. Members of Parliament matter too, and we should have great cause to be concerned about their denigration for simply trying to shine a light on the truth. I hope that, when the Minister replies, he will say where we are up to in the new inquiries taking place into what happened to those atomic test victims. I strongly support these amendments.

Baroness Butler-Sloss (CB): My Lords, statutory inquiries are very expensive. I was chairman of a statutory inquiry at about the same time as Lord Taylor. It really depresses me that, if you chair a statutory inquiry and you are given a whole lot of false information or not given the relevant information, the report you make will not be correct. That happened to the late Lord Taylor, who was later Lord Chief Justice of this country. Just think how he would have felt if he was alive today to find that he had written a completely useless report. Another aspect of this is that state money is spent on statutory inquiries. If you cannot get the truth, what on earth is the purpose of having them?

Baroness Hamwee (LD): My Lords, my noble friend's amendment, which I have signed, should not have needed examples to back it up, because I think it would stand without them, but those we have heard are very telling. The noble Baroness, Lady Finn, has not yet had an opportunity to introduce her noble and learned friend's Amendment 82, but perhaps I can ask her a question before she does: does it not narrow the obligations? Clause 13(1)(b) provides that:

"A person who holds public office commits an offence if … they know, or ought to know, that doing so is a seriously improper act".

I emphasise "know, or ought to know". The proposed Clause 13(1)(c) is about the deliberate destruction of documents which "they know"—not ought to know—

"to be relevant to the inquiry".

I am concerned that he is seeking partly to repeat paragraph (b), which I do not think needs amplification, and that his amendment would narrow the obligation.

Lord Carlile of Berriew (CB): My Lords, I am not sure, in supporting these amendments, that I accept that they go far enough. There is one word missing from Amendment 31—"conceal" or "concealment"—and the same is missing from Clause 12 of the Bill. I respectfully suggest to the Minister that Clause 12(3) needs to be amended, if Clause 12 is to remain part of the Bill, to include concealment. Surely, what we are trying to achieve here is that it is a given for all public officials that they do not conceal, destroy or remove any document which is an official document; they do not know whether it will be needed for an inquiry, but it has that imprimatur of officialdom that should be the preservative that it is never removed.

There are so many categories of document. We have had examples eloquently given of inquiries in which such behaviour has caused difficulties, but let us just think about the wide range of categories in which such difficulties can be caused: deleting emails; destroying paper files; erasing WhatsApp messages; destroying meeting notes, diaries or notebooks, which featured very strongly in the Hillsborough case; removing metadata or audit logs, which has happened in relation to many subjects of inquiries; deleting calendar entries or call records; overwriting backup tapes or archives; shredding draft documents, which revealed the real truth until they were amended by others who did not want the real truth to be disclosed; destroying CCTV footage, audio recordings or photographs; and, most egregiously, and as has happened in police cases—I referred earlier in these debates to the "Cardiff Three" case—senior police officers instructing others to delete records and deleting other records to avoid disclosure. It took years to unravel the truth as a result of those deletions.

These are just examples of some of the categories attempted to be remedied by the two amendments we are debating now. I suggest that they do not go quite far enough, but we really need them if we are going to achieve our purpose of ensuring that public records are sacrosanct against dishonest or reckless removal.

Lord Beamish (Lab): My Lords, I welcome this amendment that would make it a criminal offence to deliberately destroy documents that could be relevant to an inquiry, but there is another side of this that we need to look at: the policy within organisations on which documents are kept. We would have thought that notes on decisions, minutes, et cetera, are kept; but, having spent many hours as chair of the ISC reviewing the Mandelson papers as part of the humble Address, I say, depressingly, to your Lordships' House that systems for civil servants to keep records using meeting notes and action notes, which we perhaps got used to many years ago, no longer seem to be the way in which our Civil Service, for example, works.

4.15 pm

Therefore, if we are going to have this amendment, which I fully support, we also need some recognition of how organisations not only make decisions but note them, because, quite clearly, in the papers on Mandelson that my committee reviewed, there were some large gaps. Some departments were better than others, the Foreign Office being the worst, at keeping notes or action notes—if they did exist—on decisions that were made.

The other area—and we are talking about Hillsborough in a pre-digital age, obviously—that has just been referred to is the digital space, which is far more complicated and from which it is far easier, I would argue, to delete information. One thing that concerned my committee was the use of WhatsApp and disappearing WhatsApp, which you would think would be very important if you wanted to keep a record of what happened. What surprised me and other members of the committee were the types of decisions that were being taken over WhatsApp, and there was no record of those at all. Was that a deliberate attempt to frustrate the system? I will leave it to your Lordships to draw their own conclusions but it is a matter of concern if you have that type of process and do not have any strict rules around what should be kept or what should be transacted on WhatsApp in the first place. My committee also raised some issues around the level of security in relation to WhatsApp, where, certainly, decisions and conversations had taken place which should never have taken place apart from over high-side systems.

There seems to be a lax culture developing and if we are going to make sure that future inquiries have full access to how decisions are made, and the material behind it, there needs to be a radical overhaul in the current culture within Whitehall to ensure that proper records are kept and, as I said, on the electronic side, that some robust procedures are put in place. Without that, not only could it lead to people deliberately deleting things but things could be deleted because, for example, on WhatsApp they disappear after so many days. I do welcome this, but I think that, alongside this, organisations are going to have to have a clear set of guidance as to how records should be kept.

Baroness Finn (Con): My Lords, I thank the noble Baroness, Lady Brinton, for opening our debate on this group. As she will see from my noble and learned friend Lord Keen of Elie's amendment in this group, there is, happily, some common ground between us. Although both amendments in this group relate to the destruction of documents, they differ in the time at which the offence would apply.

My noble and learned friend's Amendment 82 seeks to create a specific offence as part of the broader new statutory offence of misconduct in public office for the destruction of documents by a public official that are relevant to an inquiry. Although the Minister has suggested previously that this would already be covered by the new statutory misconduct offence as set out in Clause 13, we are seeking clarity on that point and, ideally, it would be included in the Bill.

We thank the Minister for his engagement on this issue since Second Reading. However, we continue to believe that the most effective way to solve this is to include the proposed offence in the Bill. Indeed, the severity of the impact of the destruction of documents relating to a major incident on victims who deserve to know the truth is sufficiently severe to warrant clarity. Victims always deserve to know the truth. The Government should not rely on previous case law for their belief that this proposed offence would be covered. They are creating a new statutory offence that will replace existing legislation and, as such, previous case law may not apply in the same way to the new Clause 13. This is not something that should be left in doubt, and so the amendment is a sensible way to avoid any such situation.

In a similar vein, Amendment 31 in the name of the noble Baroness, Lady Brinton, relates to the destruction of documents ahead of an inquiry. As drafted, the amendment in the name of my noble and learned friend Lord Keen of Elie applies only after an inquiry has been opened, which is perhaps too narrow, as the noble Baroness, Lady Hamwee, suggested. However, Amendment 31 appears to be rather broad,

[Baroness Finn]
with insufficient limits about what may be relevant. I think there is a middle ground that would probably be the most suitable solution. Given the consensus in the Committee on the need for a clear offence of the destruction of documents—and I take note of what the noble Lord, Lord Carlile, said about concealment—I hope the noble Baroness, Lady Brinton, will be willing to work with us ahead of Report on an amendment that gets the balance right, and I look forward to the Minister's reply.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Lemos) (Lab): My Lords, I am grateful to all noble Lords who have spoken in the debate. I note that, as the noble Baroness, Lady Finn, said, there has been a deal of consensus. The noble Baroness, Lady Brinton, and others set out a depressing and dispiriting litany. I do not underestimate at all the importance of these amendments and the behaviour, the mischief, they seek to address. This is clearly central to one of the main aims of the Bill. It is paramount that public officials who deliberately delete or destroy information in advance of an inquiry or inquest are properly held to account. If this type of offending is not stopped, relevant and important information may no longer exist to be considered. I take the point made by my noble friend Lord Beamish about—if I may describe them as such—lax procedures in keeping information.

We are confident that the Bill already protects against the destruction of documents, in two separate ways, which I want to set out. First, Clause 2(4)(a) requires authorities and officials to provide information likely to be relevant to an inquiry or investigation if requested. They will not meet this obligation if they allow the information to be lost or destroyed when they ought to be providing it. Intentionally or recklessly destroying documents in order to impede an inquiry or an investigation is an offence. In addition, the individual in charge of an authority must take all reasonable steps to secure the authority's compliance with the duty, including ensuring that documents are accessible.

Secondly, in appropriate circumstances—I think this goes to the question that the noble Baroness, Lady Finn, asked—in appropriate circumstances and where the other elements of the offence are met, the destruction of documents could also be caught by the new "seriously improper acts" limb of the misconduct in public office offence. I hope that that is clear. For example, a public officer could commit this offence if they use their position with the intent of obtaining a benefit or causing another to suffer a detriment and when doing so they know or ought to know that their conduct is seriously improper. A benefit could include seeking to protect themselves or their organisation from reputational harm or damage. Actions such as shredding documents or ordering that information be destroyed could therefore potentially be caught.

The criminal law can already capture this type of conduct through offences such as perverting the course of justice. In March this year, for example, a serving police officer was convicted of perverting the course of justice for deliberately disposing of digital evidence—a number of noble Lords raised digital evidence—contained on a mobile phone. Contempt of court could also apply where records are destroyed in contravention of a court order. This type of conduct can also be, and has been, caught by the existing common-law misconduct in public office offence, and I have already commented on how the replacement might apply. The two new misconduct offences are intended to cover the same breadth of offending as the existing common-law offence. It is important to remember, nevertheless, that the key point of the new offences is the purpose for which a person carries out the act. This ensures that the criminal law captures those who act with improper intent.

Bespoke or unnecessary duplicate offences can risk creating confusion for those enforcing, prosecuting and seeking to abide by the law, so we should try to avoid them, though I note the strength of feeling in the House and I should be happy to continue the discussion on this and other matters between now and Committee. On the question from the noble Lord, Lord Alton of Liverpool, about the atomic tests, I promise to write to him with the latest position.

The Government consider that both the existing law and the provisions in this Bill already provide suitable mechanisms for addressing the deliberate destruction of relevant records. Creating additional or overlapping offences when the conduct is already capable of being prosecuted perhaps risks unnecessary complexity and confusion for investigators, prosecutors and public officials alike. With those reassurances, I hope that the noble Baroness, Lady Brinton, will withdraw her amendment, though, as I say, I promise to carry on the conversation.

Baroness Brinton (LD): My Lords, I am very grateful to all noble Lords who have spoken in this medium-sized debate—not terribly short by our standards on the first day. I think it has really helped the debate on what happens when people destroy documents. I am grateful in particular to the noble Lord, Lord Alton, who has been working on Hillsborough and the nuclear veterans for many years and saw at first hand some of the things that I reported as historic data deletion. That has been enormously helpful. The point made by the noble and learned Baroness, Lady Butler-Sloss, was equally important.

I am very mindful of the question from the noble Baroness, Lady Hamwee, to the noble and learned Lord, Lord Keen of Elie, who cannot be in his place, and to the noble Baroness, Lady Finn; I thank her for responding. The one point that has come up in the varied debate we have had this afternoon is that there is much debate to be had on how we get this right between Committee and Report. I hope that the Minister will agree to meet everyone who has spoken in this debate, all together, to see whether we can start to draw it out. I am grateful for the very particular comment made by the noble Lord, Lord Carlile of Berriew, about concealment. I think concealment is equal to destruction; that was certainly one of the issues with the nuclear veteran records.

The noble Lord, Lord Beamish, rightly raised the issue of how on earth we cope with data that is not on paper and stored in paper archives. I thought the

recommendations from volume 1 of the Covid inquiry were quite helpful, in that WhatsApp must never be used to make formal decisions. However, we are discussing the soft areas on either side of that. This is not just a matter for civil servants or your Lordships' House. This is a wider issue—for example, in contract law between businesses—about where decisions are made and information is held. The Government are going to have to get a grip on that.

I was very interested to hear the response from the noble Lord, Lord Lemos. Clause 2(4)(a) and the other clause he quoted are not explicit about the destruction of documents, and I think he accepts that. He cited a number of other areas in which prosecution might "potentially" occur; that word always slightly worries me. To date, how many prosecutions of officials have happened under the various routes that he has described? My gut feeling is not very many. That is the whole problem, and the reason why we need this Bill. We should ensure that the Bill is so clear that officials and their teams will be trained in what they can and cannot do long before an issue comes up. That way, cultural changes will happen. On the basis that there will be meetings between Committee and Report, I am very grateful and withdraw my amendment.

Amendment 31 withdrawn.

Amendment 32

Moved by ***Lord Carter of Haslemere***

32: After Clause 7, insert the following new Clause—

"Recommendations

(1) This section applies when the Secretary of State receives the recommendations of an inquiry with respect to the actions of a public authority.

(2) Within 56 days, the Secretary of State must, in line with their duty of candour, transparency and frankness as set out in this Act, lay before Parliament—

(a) details of any action that has been taken, or is proposed to be taken, in response to the recommendations of the inquiry, or

(b) an explanation as to why no action is to be taken in response to the recommendations of the inquiry."

Member's explanatory statement

This amendment places a duty on the Secretary of State to respond to recommendations of inquiries related to the actions of public authorities.

Lord Carter of Haslemere (CB): My Lords, Amendment 32, which kicks off this second group, would require any Government to lay before Parliament the details of action which will be taken in response to a public inquiry's recommendation or to explain why no action is to be taken. I am very grateful to the noble Baroness, Lady Brinton, for adding her name in support of it.

4.30 pm

The UK has spent £1.5 billion of taxpayers' money on completed inquiries since 1990, with active ongoing inquiries continuing to cost taxpayers upwards of £200 million a year. These are eye-watering sums. It has become something of an industry to set up a public inquiry that goes on for years and costs huge sums of money, yet the Government are under no legal duty to explain why they are not implementing an inquiry's recommendation after it has reported. How can a Government be free to spend millions or hundreds of millions of pounds of taxpayers' money on an inquiry initiated because of public concern—that is in the Act—but then be under no obligation even to give reasons to the public for rejecting its recommendations?

The Bill is supposed to be about public authorities acting with "candour, transparency and frankness". It is designed to increase public authorities' accountability and openness. Government Ministers and departments are defined in the Bill as a public authority, so it is entirely in line with the Bill that the Government should be required to be open with the public and give reasons if they decide not to implement inquiry recommendations—not a duty to implement inquiry recommendations, but simply a duty to give reasons for not doing so. That is plain common sense, and there is no reason on earth not to do so.

This is not a purely theoretical point. The NAO has estimated that 55% of inquiry recommendations are not accepted by the Government or are, somewhat equivocally, "accepted in principle" but with no recorded follow-through. This is extraordinary when an inquiry's recommendations are made on the basis of months or years of painstaking evidence gathering to establish the facts and to hear from real experts. For the Government then to be able to hold back the reasons for declining to accept the inquiry's recommendations demonstrates a lack of accountability entirely at odds with this Bill. It is also at odds with the recommendations in prevention of future deaths reports issued by coroners, where the Government are under a statutory duty to respond within 56 days and to give reasons if they choose not to implement them. Since inquiries are often initiated because of events that have resulted in fatalities, there is no good reason on earth why there should be this disparity with coroners' prevention of future deaths reports.

Our new Solicitor-General seems to be of a similar mind, since on Report in the other place, just a week or so before he was appointed, he tabled amendments to the Bill to examine the merits of a new independent oversight body to follow up on the conclusions and recommendations of inquiries to improve implementation of them. As he said, without

"candour and transparency in how public authorities respond to, and act on, findings and recommendations … these costly, lengthy legal processes are futile".—[*Official Report*, Commons, 14/7/26; col. 825.]

In 2024, the House of Lords Select Committee on Statutory Inquiries, chaired by the noble Lord, Lord Norton, similarly recommended that the Government be under a duty to give reasons for not implementing inquiry recommendations. In a Bill about openness, candour and accountability in relation to inquiries, a duty on the Government of the day to give such reasons is obvious. I beg to move.

Lord Anderson of Ipswich (CB): My Lords, I have a few remarks on Amendment 32, which my noble friend Lord Carter has so ably introduced.

[Lord Anderson of Ipswich]

I have conducted some independent inquiries of a sort that would fall within this clause, though none of them cost millions or hundreds of millions. In some cases, my noble friend was legal adviser to those who commissioned them, whether in the Home Office or in No. 10, so it is refreshing to see him, having been on the other side of the fence, championing the undoubted public interest in the recommendations of such inquiries receiving a prompt response. His solution is an attractive one but, as I have discussed with him, there are a couple of reasons why it would not always be feasible, at least in its current form.

First, a fixed requirement to respond and lay those responses before Parliament within 56 calendar days could not easily be met if, for example, a report was submitted shortly before the calling of a general election and the arrival of a new Government. Perhaps that difficulty could be accommodated by the substitution of "parliamentary sitting days" for "days" in the amendment. In other cases, though, what used to be called pre-election purdah may have an impact on the timing of any response, making a 56-day limit too rigid in an unpredictable range of cases.

Secondly, there are times when more than one report is commissioned on the same issue. A recent example is my report on the failure of the Government's Prevent programme to divert the Southport attacker from the path that led him to murder three young girls in the most appalling circumstances. I sent my report to the Secretary of State last July. An informal reaction was given, and work began immediately on some of my recommendations. But the Home Secretary chose to delay her formal response until she had the report of phase one of Sir Adrian Fulford's Southport inquiry, which was published in April this year. Our two reports made some overlapping recommendations, with implications across central and local government. A consolidated response was a rational solution in the circumstances, even though I had to wait almost a year for it.

My final point relates to the importance of the timely publication of independent reports. It is publication that enables Select Committees, parliamentarians, media and NGOs to bring the findings of an inquiry to the attention of the public and to put pressure on Governments to implement them. As an independent reviewer, I was always more concerned by delays in publication than by delays in the Government's response. It must be demoralising to submit a report to a Secretary of State which simply disappears, only to be published so long after the event that its impact is diminished. Unless the matter is a high-profile one, there can be no guarantee that parliamentary committees or the media will be much exercised by the delay or interested in it.

If the Government's reaction to recommendations has to be published within 56 days of receipt, as this amendment would provide, that must imply that the report itself has been published within 56 days. A Secretary of State could hardly lay before Parliament a response to recommendations of which Parliament and the public were ignorant. So, while the amendment does not on its face require timely publication of reports, it would appear to have that benign—I would say—side-effect. Perhaps the noble Lord could comment, when he closes this debate, on whether this is a feature of his amendment rather than a bug—I rather hope that it is. I look forward to hearing what the Minister has to say about the importance of timely publication as well as timely response.

Lord Beamish (Lab): My Lords, I welcome the amendment from the noble Lord, Lord Carter, on a very important issue: what happens to the outcomes of very lengthy and expensive inquiries? The noble Lord raised what has been spent on public inquiries since 1990 and I suspect that will grow even further.

The problem we have got into—as a parliamentarian I am possibly as guilty of this as anyone else—is that, as soon as something goes wrong, we call for a public inquiry as though somehow it will get to the truth and change things. I have spent a long time with the victims of the Post Office Horizon scandal. What do people want? They want two things. First, they want the facts out there and, in some cases, they quite rightly want compensation. But, more than anything, most of them say "We don't want this to happen again". It is about changing things in the future.

Let us deal with compensation. The Public Accounts Committee report a couple of weeks ago was very good. It said we need to set up a permanent body to deal with compensation. I should have declared an interest: I sit on the Post Office Horizon advisory board. We have five different schemes just on that one scandal. We are inventing these things every single time. It leads to a waste of effort and delays in getting victims compensation. The call for a permanent government body to deal with compensation is important.

I have sympathies with this amendment, because it comes to something that I and Professor Chris Hodges, who chairs the advisory board for Horizon compensation, have been doing some work on: how do you ensure that public inquiries' recommendations are implemented and accepted by government?

I welcome the debate. It is good that we are having it. The problem is how it is framed: Governments could hide behind this very easily by saying, "Well, we note the report; things are going to be looked at possibly in the future"—or, if there is a change of Government, it just gets lost. My personal preference is: yes, we need timely reports of inquiries, but we also need actions on behalf of the departments to implement the recommendations. This is where it falls down. I remember, for example, Sir John Saunders's inquiry into the Manchester Arena bombing, which made some very good recommendations. One of his concerns was how they would be followed through afterwards. He wrote to the ISC asking whether we could monitor: well, we did not have the capacity and nor were we set up to do that. That showed me that there was a gap there.

I think the only way to do this is by doing two things. First, we need to reform inquiries; we need a permanent new body, perhaps a super-ombudsman-type organisation, which sits permanently to look at these scandals and make timely recommendations. Secondly, we need parliamentary oversight alongside that. You could perhaps have a Joint Select Committee of the two Houses or whatever, which would not only be able

to look at the work of the inquiry organisation that I am envisaging but also, more importantly, look at the implementation of the recommendations of inquiries. Without some type of parliamentary oversight and pressure on the Executive, there will always be a default position where, once something is out of the headlines, as the noble Lord, Lord Anderson, has just said, it is a matter of, "Do we really need to worry about this?". That is the problem.

Public inquiries get a lot of heat and light when the recommendations come out. But what is the follow through? Some will take a long time and a lot of detailed work to implement—as well as cost. That needs to be monitored and should be a role for Parliament. Otherwise, we will have a lot of publicity when we get the recommendations of inquiries, then a lot of disappointed people afterwards, because they do not get the understanding that things will change in the future, which I believe is more important than anything for them. You talk to a lot of the victims of the Post Office Horizon scandal and what do they want? What you hear more than anything else is, "We don't want this to happen again to anybody in the future". That is a common tenet among a lot of the victims of a lot of these scandals. They want meaningful change and for their suffering to have some effect in terms of changing things for the future.

Lord Bichard (CB): My Lords, I too have sympathy with this recommendation and I hope that the Minister when replying will commit to having some further discussions, because I also have some sympathy with the comments that have been made—not all of them, but many of them. When I chaired the Soham inquiry, I included in the recommendations a recommendation that Parliament should require the Government to report back in six months. The Home Secretary on behalf of the Government accepted that. The reason I said six months—this would be an amendment I would make to the amendment—is that, as has been said, 56 days after a report has been published, it is very easy to agree it, or agree much of it.

What we are all really interested in is the action that has been taken. I felt that six months was a sufficient period for the Government to show that they were acting on my recommendations for a new national police intelligence service and a new vetting service. It worked very well. One of the reasons it worked really well was that civil servants—of which I was one at some point in my past—take very seriously the prospect of a Home Secretary reporting to Parliament in six months' time on the action that they effectively have taken. Therefore, I found that they were very keen to keep me in the loop and to talk to me. We would not have achieved anything like the success we did as a result of the Soham inquiry had I not done that. Fifty-six days is a staging post, but it is too early to be sure that the recommendations have been acted on, and that is what we should be looking for.

Lord Faulks (Non-Afl): My Lords, I was on the committee of your Lordships' House referred to by the noble Lord, Lord Carter, looking into the future of public inquiries. I have to say that public inquiries did not get an overwhelming endorsement. Many of us thought they went on too long, were too expensive, were often insufficiently focused and were very much over-lawyered. One of our conclusions was that we should try, unless they are absolutely necessary, to get rid of judges, excellent though they are, and focus inquiries on those who perhaps have more specific expertise. Some of those conclusions were not welcome, but I think that the time to look at public inquiries is very much here. There are too many of them. The noble Lord, Lord Hendy, and others, who were also on the committee and will remember those debates.

4.45 pm

One thing we were clear on was very much in line with the recommendation contained in this amendment. If we are going to have these very expensive inquiries and if there are recommendations, which there should be, those recommendations should be responded to swiftly. The noble Lord is quite right—that is entirely reflective of the theme of this legislation, which is one of candour. Subject to the changes that the noble Lord, Lord Anderson, makes to tidy this up, I would respectfully say to the Committee that an amendment such as this is important, consistent with the theme of the Bill and reflects recommendations made by a number of different bodies.

Baroness Butler-Sloss (CB): I cannot resist following on from the noble Lord. My inquiry started in 1987 and I presented a report in 1988, so some judges do not take a lot of time.

Turning to the amendment, the principle behind it is excellent, although the noble Lord, Lord Anderson, has pointed out some difficulties, and it may well need a degree of rewriting.

What is depressing is that, as anyone in this Chamber who has run an inquiry knows, often, the Government do not respond to the recommendations for a long time; but much more depressing is that they are not in fact carried out, as other noble Lords have said. My particular inquiry dealt with children. There have been endless inquiries ever since mine, all dealing with aspects of children and all coming largely to the same result without any action at all. Best of all, one of my recommendations was that social services and everybody else should listen to children. Do you know, I heard at the beginning of this year a Minister in this House stand up and say, "We should listen to children".

Baroness Fox of Buckley (Non-Afl): My Lords, I have not run an inquiry, sat on an inquiry or been on the committee. However, over the weekend I chaired a discussion involving Maggie Oliver, the ex-detective whistleblower who came out and spoke about the grooming gangs. Also on the panel was Emma Webber, whose son Barnaby was killed by Valdo Calocane. As I mentioned at Second Reading, she has personally done so much via social media and other media to reveal the details for laypeople, as it were, about what has happened in the Nottingham inquiry to date.

This was an event at the Battle of Ideas Festival, involving a discussion and debate about the accountability of public officials and state bodies when things go

[Baroness Fox of Buckley]
wrong and there are preventable deaths—an issue very much at the heart of this Bill. I was really taken aback by the reaction of the audience when I mentioned the Bill and trying to ensure that the law is brought to bear and there is truth and candour in inquiries. There was an overwhelming feeling in the audience—of hundreds—at that discussion that public inquiries are a waste of time and money. There was a sense that, whatever comes out of public inquiries, they are just about defusing public anger and setting up an infrastructure to kick the issue down the road.

There will be people here who will say that public inquiries are very important, and I have often demanded a public inquiry; I certainly did in relation to the grooming gangs. There is merit to this very important amendment, even if the details need to be ironed out, such as whether it is too rigid. I think the noble Lord, Lord Carter of Haslemere, was saying that no Government are obliged to act on all the recommendations of an inquiry, which is fine; that would be ridiculous. But if they do not, they should say why not. It is simple.

If state bodies go through eye-watering amounts of money, time and energy to put on an inquiry to come to a series of recommendations, surely there is a duty of candour—if ever there was a need for a duty of candour—to be truthful to the public about what the Government of the day think about that inquiry. What do they think of the recommendations? Are they going to do this or not do that, and why not? That is surely a very minimal demand. Therefore, I suggest that this amendment is a no-brainer for the Government, because it will strengthen the real commitment of the Bill to being more than just a box-ticking exercise.

There is cynicism about this legislation, despite the great enthusiasm for its aims. The danger is that people will think that it says there will be more accountability and an ethos of truth-telling, when in fact it is being used to compensate for building a different kind of culture in all public authorities. In some ways, it could end up being a bureaucratic box-ticking exercise unless we get the details right. I therefore fully support this amendment.

Baroness Brinton (LD): My Lords, I have signed Amendment 32 from the noble Lord, Lord Carter, which he set out clearly. We have had a fascinating debate, as with the previous group, on what is probably a Goldilocks issue—there are some things we clearly need to do, but others are problematic and we do not want to do them. Have we found the sweet spot? I apologise for mixing my metaphors.

Throughout the progress of the Bill, we have had a great deal of debate on how we tackle the culture of public organisations that the noble Baroness, Lady Fox, just mentioned, in order to prevent future scandals. We have already heard about Hillsborough, infected blood, Post Office Horizon and Windrush; I do not think anyone has mentioned Grenfell yet today, so I will.

The amendment is one of the tools in the box to show that both the structures and the culture must change. Whether it is 56 days or longer—the noble Lord, Lord Carter, will respond on this point—we are trying to find a mechanism to prevent the current practice, which we should not refer to as a culture, of the Government usually taking a year to respond to an inquiry or other major report, deciding that they need to consult on various parts of it, and then coming back with their recommendations. Often, it is two years or more before practical changes are discussed.

It is clear from all the problematic disasters we have been discussing throughout the Bill's passage that things have got stuck in a rut, leading to the public sector mindset of deflecting and not doing anything, because there have been no targets for the Government to respond to. That is why I like this amendment. It may need changing slightly, but the most important element is that the Government would have to give an initial response. If other reports are coming as well, that might alter the situation, but the whole point of the Bill is transparency and accountability, which means that if things have to change, the Government should not be afraid to say so. It has not been government culture to say, "Oops, we got this wrong", or "Things have changed; we need to change this"; but if we are going to get these complex, difficult issues right, we must learn to take that approach.

I was interested in what the noble Lord, Lord Beamish, said about one compensation body: my Amendment 115 will be discussed on the next day in Committee, and I am passionate about having one compensation body. Part of the problems is that we move civil servants who have been responsible for the problem into the compensation body because they are the only other people who know about it. We have to move away from that.

We really need to focus our thoughts on the immediate response to make sure that things are not lost. We keep going on about cultural change, but part of the cultural change inside our public official organisations and with our public officials is feeling that you do not have the time to ignore something because it might go away if nobody does anything at all.

Baroness Falkner of Margravine (CB): My Lords, I have come late to our debates on this Bill. I was unable to be here for Second Reading, but I was here last week for the long day we had discussing it. I do, however, apologise to the House, and I beg its indulgence to allow me to participate today and onwards.

I have a few questions about the very commendable amendment from my noble friend Lord Carter. There are a couple of things I would like to pick up on, because they are pertinent and important to the heartfelt support there is in this House for this amendment and to the desire of the House to—as the noble Lord, Lord Beamish, put it—reflect the public's desire that some action is taken: what has come of all of that time and money and inquiry?

The comments made by the noble Baroness, Lady Fox, on the grooming gang scandal are a case in point, where the Independent Inquiry into Child Sexual Abuse—which is the formal title of the Jay inquiry—took several years and finally reported in October 2022. To pick up the point made by the noble Lord, Lord Anderson,

we then had a little bit of action when a couple of the recommendations—out of a large number—were accepted. Then, there was a general election.

After that, the Government decided—for whatever reason that was never clear to those of us who were following it carefully—that the Jay inquiry had not been sufficiently deep or wide ranging, or whatever, and they decided to run parallel inquiries into the criminal actions in certain towns and cities in the original inquiry but also to commission the noble Baroness, Lady Casey, to do an overall approach. That was announced, I think, as long ago as 2024, shortly after the Government came in—or perhaps it was early last year. However, we are told nothing will happen in terms of recommendations until at least next year, though potentially longer given that the rather overworked noble Baroness, Lady Casey, has several other pending items in her in-tray.

My noble friend Lord Carter of Haslemere made the very good point that when inquiries such as that, where palpable injustice and criminal acts have happened, take decades to complete, we need to hear from Ministers as what they are going to do. We certainly need an explanation of why they have decided to dismiss part of an inquiry or not take any action —because that was the other lot who were dealing with it and now there is a new lot and they want something else. The explanation required in subsection (2)(b) of his proposed new clause

"as to why no action is to be taken in response to the recommendations of the inquiry"

is profoundly important, but I really do not believe that eight weeks—56 days—will be adequate, particularly if pre-election purdah, a change of government or any other hurdle were to be erected. Perhaps my noble friend in summing up would be able to tell us whether he is minded to give a little bit more leeway to government and extend that period so there is a reasonable amount of time that allows it to respond.

Lord Wolfson of Tredegar (Con): My Lords, I can speak briefly on this group. First, the government amendments consist primarily of amendments to clarify drafting and application to Wales. For fairly obvious reasons, I am not going to oppose them. I do look forward, however, to the day when Bills as originally drafted fully take into account the position of Wales rather than amendments coming in halfway through the process. I confess that the last Government were probably as guilty on that point as this one, but it is something we ought to think about.

5 pm

More substantively, Amendment 32 in the name of the noble Lord, Lord Carter of Haslemere, seeks to place a duty on the Secretary of State to respond to recommendations of inquiries related to the actions of public authorities within 56 days. Respectfully, we think the amendment makes a very sensible point. We agree that there should be some sort of scrutiny after the fact if a Government choose not to accept recommendations. Of course, the Government always hold the pen. There is no requirement that the Government should accept all or indeed any recommendations of any inquiry, but we suggest that it stands to reason that they should at least provide reasons for not doing so.

I was very encouraged by the reference made by the noble Lord to Mr Andy Slaughter supporting this proposition, until I heard the disheartening words, "A few days before he joined the Government". There is the famous line:

"Presume not that I am the thing I was".

Shakespeare tells us that that applies to somebody becoming the monarch. I do not know whether it also applies to somebody attaining the lofty office of Solicitor-General, but we will wait to see whether there is a volte-face in his personal position. We think there is a lot of force in the underlying point, for the reasons given by the noble Lord and a number of other contributors to this debate. Therefore, we look forward to the Minister's response to the substantive point.

On the timescale, we respectfully think that there is a lot in the point—made by a number of noble Lords, in particular the noble Lords, Lord Anderson of Ipswich and Lord Bichard—that 56 days might not be the right period. It is not self-evident that putting a particular period into law is necessarily the right way to go about this. There may be other pressing issues that need addressing as a priority over responding to an inquiry. Of course, inquiries ought to be responded to in a timely manner, and there must be a form of drafting which is capable of capturing that essential point.

Therefore, we look forward to the Minister addressing three separate questions which seem to arise. First, as a matter of principle, do the Government agree that they should respond to all inquiry recommendations? Secondly, if so, do the Government agree that when they do not accept an inquiry recommendation, they should give reasons for their decision. Thirdly, if the Government are, like us, not persuaded that 56 days is the right period, what period do they have in mind, and what are the reasons supporting that period?

Lord Lemos (Lab): My Lords, I thank all noble Lords for their contributions to the debate. I note, with some humility, the enormous experience that has been demonstrated in the debate from noble Lords who have chaired inquiries. I will come to those in a minute.

I will first deal with the government amendments. These are technical amendments to make sure that statutory and non-statutory inquiries established by Welsh Ministers are subject to the provisions in the Bill regarding the conduct and reporting of conduct of public authorities at inquiries and the engagement and conduct of legal representatives. This will allow Welsh Ministers to set out an overriding objective regarding participation and maintain the inquisitorial nature of proceedings in relation to statutory inquiries. We are also making an amendment to the Government of Wales Act 2006 to ensure that should the Senedd subsequently legislate to remove the relevant concurrent functions, it would be able to do so without requiring the consent of a Minister of the Crown. I commend these amendments to the Committee.

I turn to Amendment 32, from the noble Lord, Lord, Carter. The Government entirely agree that there should be a clear and consistent expectation on public authorities to respond to inquiry reports and their recommendations. The question from the noble

[LORD LEMOS]
Lord, Lord Anderson, goes to the point about timely publication; long delays, at any stage of the process, are a significant problem. I note the comments from the noble and learned Baroness, Lady Butler-Sloss, about the risk of inquiries overlapping with each other, and the many inquiries about children—including her own distinguished inquiry. She referred to the last time she heard someone in your Lordships' House say, "We do not listen to children". I think that might have been me, so I plead guilty as charged. The only thing I would say in my own defence is that we still do not listen to children.

I think everybody would agree that it is vital that public authorities have enough time to fully consider an inquiry's recommendations and support Ministers to make informed decisions about how to respond. Once inquiry recommendations are accepted, they become government policy that must be delivered—that is a really important point. I note the comments from the noble Lord, Lord Bichard, about the delivery of the agreement to the recommendations, not just the agreement to the recommendations. I am very familiar with his work on the Soham inquiry and the importance of the changes that were made.

I entirely share the sentiments of my noble friend Lord Beamish. Having talked to the victims of many kinds of disasters over the years, I know that the pressing feeling of the survivors, victims, bereaved families and so on is that they do not want this to happen again, and the way to make sure it does not happen again is to deal with it promptly. We slightly go round in circles on that point, but it is obviously right.

As the noble Lord, Lord Carter, may be aware, we are taking steps to improve the Government's delivery of accepted inquiry recommendations, including through the inquiry recommendation dashboards. However, the Government agree that the noble Lord is right to raise this issue, and we note that there has been some discussion in the other place. I will take away his proposal to consider it. I note the comments and questions that have been raised by other noble Lords about the deadline and so on. We will take away the noble Lord's proposal to consider how we can establish a clearer and more consistent expectation on public authorities to respond to inquiry recommendations.

In my response, I think I dealt with the three questions asked by the noble Lord, Lord Wolfson, but I am very happy to do so explicitly. The Government should respond and give their reasons, and they should do so in a timely fashion. As I say, we will take this away. I think the feeling of the Committee is that there is a bit more work to do to get this right. In the meantime, I ask the noble Lord, Lord Carter, to withdraw his amendment.

Lord Carter of Haslemere (CB): My Lords, I am very grateful for all the encouraging support that this amendment has had. I entirely accept the point made by the noble Lord, Lord Anderson, about the 56-day period. The reason for that, as I said in my speech, is that that is the period that legally applies to coroners, so I seized on it. Of course, there may be circumstances where that is too short—the noble Lord, Lord Anderson, gave some very good examples of that—and I am entirely flexible about that. However, there needs to be a meaningful and timely response—that was the word used by the noble Lord, Lord Wolfson—and it has to have some sort of legal authority behind it; otherwise, we will end up with these pat phrases, such as "in due course" and so on.

As the amendment stands, the point made by the noble Lord, Lord Beamish—that the Government could simply note the report—would not tick the wording of my amendment, which is about giving an explanation as to why no action needs to be taken. There needs to be some finality. The point on finality also addresses a point made by the noble Lord, Lord Beamish, and the noble and learned Baroness, Lady Butler-Sloss, about things coming around again and again—a point that has been made a number of times. We are wasting public money when these things happen. There needs to be a finality to them, so that action can be taken and the Government can be seen to deliver what an inquiry's experts and chair have reported. I entirely accept that point.

Quite simply, noble Lords have got the point. The noble Baroness, Lady Fox, made it very well. She and the noble Baroness, Lady Brinton, understood entirely the substance of my amendment: that the Government must be under a duty to respond and must give some sort of explanation for not accepting a recommendation if that is the outcome. That is what I am getting at. I will think carefully about the wording of the amendment and discuss it with noble Lords. Let us come back to this on Report. In the meantime, I beg leave to withdraw my amendment.

Amendment 32 withdrawn.

Amendment 33 not moved.

Clause 8 agreed.

Amendment 34

Moved by ***Baroness Finn***

34: After Clause 8, insert the following new Clause—

"Guidance for officials on duties under Chapter 1

(1) Within one month of the coming into effect of this Act the Secretary of State must issue guidance for the purposes of this Chapter.

(2) Any guidance issued under this section must include information for officials on the support which is available to them to help them comply with section 2 of this Act."

Member's explanatory statement

This amendment seeks to probe what support will be made available to officials to ensure they get the help they need to comply with the duty of candour under section 2 of this Act.

Baroness Finn (Con): My Lords, Amendment 34 was tabled in the name of my noble friend Lord Keen of Elie. This amendment seeks to probe the level of guidance and support that will be made available to officials for them to navigate the duty of candour set

out in Clause 2. The amendment seeks to ensure that the Bill is effective in practice and that civil servants are properly supported with their legal responsibilities.

For this legislation to be as effective as the Government intend it to be, it is essential that officials know how to comply with the duty of candour and are given any necessary support in fulfilling that duty. This matters most in the case of more junior officials, who may lack experience engaging in inquiries or other similar affairs. Can the Minister say in his response what assessment has been made of the difficulties that officials at the most junior level may face in complying with Clause 2(3)(a)? Those officials who are more senior, especially those who have experience engaging with investigations and inquiries, will surely be far better equipped to comply with the duty of candour. Will the Government make specific provision for those officials who lack that experience?

The Government have chosen to proceed by imposing a broad, disparate duty of candour on all officials. We understand why they have sought to proceed in this way, given the evidence of South Yorkshire Police altering hundreds of police statements and plain paper accounts following the 1989 Hillsborough disaster. A disparate duty removes the role of the central body, preventing that body altering statements and evidence to the inquiry. However, it cannot be right that junior officials and other officials who lack experience of such engagement with inquiries should be left to navigate their legal responsibilities alone. What legal support will officials be able to draw down either from their department directly or from lawyers funded by their department?

The Government might, not unreasonably, say that Civil Service trade unions will take on the responsibility of providing officials with legal advice where an inquiry of relevance to their work is established. I cannot imagine that trade unions would want that responsibility, but it is not unreasonable to think that they might be able to provide officials with the support that they need. I would be interested to hear whether the Minister has discussed the duties in this Bill and their consequences for officials with representatives of the trade unions. Can he tell us what role the trade unions intend to play? Having said that, not all public servants are members of a trade union, and it would not be right for the Government to impose legislation that makes it virtually an occupational necessity to join a trade union. In the circumstances where an official is not a member of a union, as many are not, the question remains: what support will their sponsor department provide?

Departments may have even more wide-ranging support to offer. With the broad duty of candour, there is a significant risk that a junior or inexperienced employee might want to have their department provide instructions on what they should and should not provide to an inquiry. What assessment have the Government made of the possible greater role that could and should be played by individual departments, or perhaps a central unit in the Cabinet Office, to ensure that our hard-working public officials are not left to navigate what is clearly a complex law alone? I beg to move.

5.15 pm

Lord Marks of Henley-on-Thames (LD): My Lords, I apologise to the Committee that I was unable to be here for either Second Reading or the first day of Committee and so have not spoken before on the Bill.

As we all know, Clause 2(1) insists on "candour, transparency and frankness" in dealing with inquiries and investigations. They are rightly identified in the Bill as the crucial requirements for honest dealing. However, the noble and learned Lord, Lord Keen, the noble Lord, Lord Wolfson, and the noble Baroness, Lady Finn, who so ably moved this amendment in their place, are also right that the standards which effectively state the Nolan principles are expressed in the Bill in general terms only. We and the officials of whom these standards are demanded need to be clear about what follows from the Nolan principles in terms of their practical application. The Bill would benefit from elucidation in that regard. That can be given by guidance. We would ordinarily expect guidance. The Bill introduces a specific and express duty of candour and assistance, which amounts to a new area of public duty—certainly a new expression of a duty that might always have been implicit but is now to be explicit. Furthermore, Clause 5 establishes a new offence of failing

"to comply with the duty of candour and assistance in respect of an inquiry or investigation".

That of itself is a strong reason why clear guidance is particularly necessary. Therefore, we think it right that guidance should be compulsory.

I note that the explanatory statement for Amendment 34 describes this as a probing amendment. We on these Benches would be more forthright. The amendment is in no sense didactic about what should be in the guidance, but a compulsory requirement for guidance from government would provide a great deal. The noble Baroness, Lady Finn, talked about the possibility of guidance from trade unions. That is as may be, but what is required is guidance from government to provide clarity on what is to be required of officials and what support they will receive in abiding by the duty. It would provide consistency across different organisations and between different areas of the country and different areas of operation. There is no indication in the Bill now as to how consistency is to be achieved.

Such guidance would provide clear assistance to officials who above all need to know what they must do to comply with the new expressed duty and to avoid falling foul of the criminal law. It would provide assistance to the courts and to the judiciary when they come to interpret the law and, from the judges' point of view, direct juries as to the requirements of the new law. Above all, perhaps, I echo what the noble Lord, Lord Beamish, said in the last group on the implementation of the recommendations by inquiries. It would provide clear guidance on what is required of officials to be bound by the assistance in helping them, as officials, avoid repetition of past failures, which is part of what the Bill is all about. For all these reasons, we regard this as a sensible amendment and invite the Government not merely to be probed by it but to accept it.

Baroness Falkner of Margravine (CB): My Lords, I have some questions to do with this amendment which relate to those public bodies that would not necessarily have access to adequate legal advice and information. In doing so, I support the amendment entirely. I want to make that clear up front.

My questions are to do with non-departmental public bodies and arm's-length bodies, of which I have some experience. As the noble Baroness, Lady Finn, has pointed out, frequently the duties of this Bill would fall on relatively junior officials who may not, despite the training they might have received, have the capabilities to provide the necessary information in the format and order—and with the alacrity—that would be required.

My question to the Government relates particularly to Part 4 of Schedule 6, which deals with parity. We will come to that later in the Bill, but I want to pick up the point here. Would it relate to external legal advice, frequently from independent counsel, where an arm's-length body may not have the internal capacity to get it? Many of them, in dealing with inquiries such as the Covid inquiry that entail long and detailed responses, have to hire independent counsel to advise them in any event. Part 4 of Schedule 6 says that public authorities must "have regard to guidance" promoting candour and supporting the "inquisitorial" character of inquiries, may use public representatives only where "necessary and proportionate" and must answer concerns raised about their conduct. What is the meaning of "necessary and proportionate" here? How would we ascertain that? That is the reason why the guidance is so important.

Captain of the King's Bodyguard of the Yeomen of the Guard and Deputy Chief Whip (Baroness Anderson of Stoke-on-Trent) (Lab): My Lords, I am grateful to the noble Baroness, Lady Finn, for moving the amendment from the noble and learned Lord, Lord Keen of Elie, which seeks to require the Government to publish guidance on the duty of candour and assistance within one month of the offences coming into force. I agree with the noble Baroness that it is essential that officials under the duty understand what is required of them and where they can seek support regardless of their seniority.

While, broadly speaking, the intention of the duty of candour is to enforce the behaviour already expected of public officials and authorities, it is important that there is clarity about the new law. I can therefore assure the noble Baroness, Lady Finn, and the noble Lord, Lord Marks, that we will provide guidance to public officials about the duty of candour and assistance and that our intention is for this to be ready for the commencement of the duty.

In response to the resourcing questions raised by the noble Baronesses, Lady Finn and Lady Falkner, departments currently provide legal advice to officials, and we would expect the same for arm's-length bodies. We expect this to continue upon commencement of the Bill. In light of these reassurances, I hope the noble Baroness will be content to withdraw the amendment.

Baroness Finn (Con): My Lords, I thank the noble Lord, Lord Marks, and the noble Baroness, Lady Falkner, for their support for this amendment and for highlighting the need for clear guidance, particularly from the Government, to support officials, especially more junior ones, in abiding by the duty. I thank the Minister for acknowledging the importance of this issue and welcome the commitment to bring forward guidance on this matter. In light of that, I beg leave to withdraw the amendment.

Amendment 34 withdrawn.

Clause 9 agreed.

Clause 10: Expected standards of ethical conduct

Amendment 34A

Moved by ***Lord Hendy***

34A: Clause 10, page 10, line 21, after "take" insert "all reasonable"

Member's explanatory statement

Clause 2(5) requires that the public official in charge of a public authority shall "take all reasonable steps" to secure that the authority complies with its obligations under the Bill. This amendment applies the same standard here.

Lord Hendy (Lab): My Lords, I have five amendments in this group. If it is convenient to your Lordships, I propose to speak to all of them and then formally move the first. I will be brief.

This group concerns the involvement of workers in the fulfilment of the Clause 2 obligations, with the exception of the last amendment, which deals with impact assessments. I use the word "workers" with precision, because your Lordships will have observed that in Clause 10(1) the obligation of ethical conduct is to be observed

"at all times by people who work for the authority".

As somebody with some experience in employment law, to me that means employees, limb (b) workers, self-employed workers, bogus self-employed workers, agency workers and workers under a personal service company. It may even involve those who volunteer for nothing. So, it is a very broad concept.

My first amendment, Amendment 34A, is simple. It seeks to insert "all reasonable" in Clause 10(1), which currently reads:

"A public authority must promote and take steps to maintain high standards",

and so on. The amendment would make it "take all reasonable steps". That phrase is used in reference to public authorities in Clause 2, which says that

"the public official who is in charge of the authority must take all reasonable steps to secure that the authority complies with those obligations".

My second amendment in this group, Amendment 37A, would require that each public authority, in drafting its code of ethical standards, consults ACAS, as experts on disciplinary matters, and the recognised trade unions. We are talking about public authorities; the public sector has a very high level of collective bargaining

coverage, meaning that public authority employers do negotiate with trade unions and that the recognised trade unions are genuinely representative. Of course, this would not prohibit consultation with anybody else, but it is important that the recognised trade unions' workforce representatives have a say in the code of ethical standards, as that not only imposes standards of conduct but may be the cause of disciplinary measures against the workers concerned.

My third amendment is Amendment 40A, which seeks to make it clear that a worker alleging that the code of ethical standards has been breached on the basis of their "reasonable and genuine suspicion" should not be subjected to

"dismissal or detriment … including … bullying and harassment".

There should be adequate protections for those who draw attention to what they genuinely and reasonably believe is a breach of the code. That goes beyond the current protection for whistleblowers. However, in Amendment 43A, I have looked at the reverse of the coin to make sure that the protection given to whistleblowers under the current statutory regime is extended to people in this situation.

Finally, Amendment 42A is intended to impose, among the other explanations that the Bill currently requires of public authorities, the obligation to give an explanation of how the protection of workers will be delivered.

With that, I beg to move Amendment 34A.

Baroness Featherstone (LD): My Lords, Amendments 41 and 43 are in my name. Amendment 41 is about what happens when serious concerns are raised within a public authority and particularly what happens when those concerns are not acted upon.

We have seen scandal after scandal when warnings were given, sometimes repeatedly, but nothing was done. In some cases, those at the top of the organisation were never properly informed; in others, concerns were dismissed or allowed simply to disappear. Too often, protecting the reputation of the institution seemed to take priority over protecting the people whom it was supposed to be serving.

5.30 pm

One of the most troubling aspects of these scandals is that, when the truth finally emerges, it can be remarkably difficult to establish who knew what, when they knew it, and who decided not to act. Responsibility becomes blurred, decisions are attributed to processes or committees rather than individuals, and, sometimes, there is simply no proper record of why a serious warning was ignored.

My Amendment 41 is intended to address that problem. It would require public authorities to set out in their codes of ethical conduct how credible information about serious wrongdoing, systemic failure or a continuing risk of serious harm should be handled. It would make clear when concerns must be brought to the attention of senior management or those responsible for governance. Importantly, it would require decisions to be recorded, including whether a matter was investigated, who was responsible for the decision, and, crucially, why no further action was taken if no further action was taken.

That last point is particularly important, because there may be perfectly legitimate reasons why an authority decides that a particular concern does not require further investigation, but that decision must be made consciously by someone who can be identified, and with their reasons properly recorded for public record. Otherwise, it is far too easy for serious concerns to fall between the cracks or for responsibility to be passed from one person to another until nobody is accountable.

This amendment is not intended to create unnecessary bureaucratic burdens, and nor does it require every allegation to result in a full investigation; it simply requires a clear process with proper escalation and a record of the decisions made. We cannot prevent every failure, but we can make it much harder for warnings to be ignored, for responsibility to be avoided or for institutions to claim afterwards that nobody knew what was happening.

I hope the Government will recognise that this is a practical and proportional way of strengthening the Bill. I would particularly welcome the Minister's view on why any public authority receiving credible information about serious wrongdoing should not be required to record what it decided to do about it and why.

Amendment 43 deals with another straightforward problem: what happens when serious concerns are raised about an organisation but the people responsible for investigating them are themselves part of the problem? We have seen this happen in a number of public scandals: concerns are raised, investigations take place internally, and the organisation concludes that there is little or nothing to answer for: case closed.

Sometimes, that conclusion might be justified, but sometimes it is more about protecting the organisation and its reputation than about finding out what went wrong. If senior management is implicated, it is particularly difficult to see how an internal investigation can be impartial.

My amendment would require public authorities to provide a route for independent consideration of serious concerns in three circumstances: where senior management is involved, where similar concerns have previously been raised but not adequately investigated, or where there is good reason to doubt that an internal investigation would be impartial. In those circumstances, the authority's code of ethical conduct would have to identify an independent person or body to whom the matter could be referred.

This is really not about requiring every complaint to be investigated externally, nor is it about creating another layer of bureaucracy. It is simply about making sure there is somewhere independent to go when the normal internal processes cannot reasonably be relied on. We know that staff can find it difficult to raise concerns about those above them and that institutions can become defensive when their reputation is at stake. An independent route would help ensure that serious warnings are not simply dismissed or contained within an organisation.

[Baroness Featherstone]

I would be interested to hear from the Minister whether the Government believe that the existing arrangements provide sufficient independence in these particular three circumstances. If an organisation is accused of serious wrongdoing, we should not expect it to be the sole judge of its own conduct.

Lord Wolfson of Tredegar (Con): My Lords—

Captain of the King's Bodyguard of the Yeomen of the Guard and Deputy Chief Whip (Baroness Anderson of Stoke-on-Trent) (Lab): My Lords, I think the noble Baroness, Lady Falkner, might want to speak to her amendment.

Baroness Falkner of Margravine (CB): My Lords, forgive me: I am slightly lost. Am I speaking to Amendment 63A? I beg the indulgence of the House for a moment while I find my papers.

Baroness Anderson of Stoke-on-Trent (Lab): Sorry, that is my fault. I apologise. The amendment has been moved from this group.

Baroness Falkner of Margravine (CB): I thank the noble Baroness: near heart attack averted.

Lord Wolfson of Tredegar (Con): If the noble Baroness quite rightly is not going to speak to her amendment, I will speak to mine, which is in this group. First, I will address Amendment 147 in the name of my noble and learned friend Lord Keen of Elie, to which I have added my name. It seeks to require an impact assessment of the cost of implementing the policy outlined in Clause 10: a policy that would require public authorities to publish a code of ethical conduct.

The reason for this probing amendment is that the existing impact assessments for the Bill do not make any mention of the expected cost of implementation of these proposed measures. It seems to us that there must be a cost of drafting and publishing such a code, so this does seem to be an omission. If, of course, the data exists and just did not make it into the impact assessment, we would of course be very happy to withdraw the amendment. Can the Minister share that cost with the House? If it has not yet been calculated, why has it not, and can it please be calculated and then shared?

More generally, there is limited evidence in fact to indicate that the existence of codes of conduct is sufficient to prevent scandals occurring. There are numerous scandals in recent history that have happened within institutions that already have codes of conduct, such as the NHS. The underlying issue is really conduct, not codes of conduct, and it is not clear to many of us that you change the former by instituting the latter. As it stands, there is every possibility that the cost could be considerable, with every public authority expected to draft their own individual code. How have the Government come to the conclusion that Clause 10 is the right way forward without, it seems, having undertaken an impact assessment on the costs of this new duty? I appreciate here that we start to touch on the points made by the noble Lord, Lord Alton, that call for a single code. I will deal with those in the next group, although of course the points overlap to an extent.

On the other amendments in this group, those in the name of the noble Lord, Lord Hendy, broadly seek to protect those who raise concerns, but we on these Benches would be wary of amendments that seek to add unnecessary consultation burdens, which would be costly and would also delay implementation, as we think Amendment 37A does. On Amendment 34A, which seeks to require public authorities to take all reasonable steps to promote ethical conduct, we understand where the wording has come from, as the Explanatory Note indicates, but the context is vastly different from the specific offence in Clause 2, so it seems to us a little clunky to use that drafting in this case as well.

Amendment 40A seeks to create protection for employees, but we wonder whether that is not already covered sufficiently in the existing Employment Rights Act 1996. Amendment 42A would require a public authority to explain the protection it provides, which would again take more time and money to implement. We already have a huge amount of regulation in this country. Generally, on these Benches, we think we need less rather than more regulation.

I turn to Amendments 41 and 43 from the noble Baroness, Lady Featherstone. Although she is, with respect, right to probe how organisations will in fact undertake their responsibilities to behave ethically, we are concerned that these amendments risk being somewhat overly prescriptive, and we already have concerns, as I have said, about the cost of the implementation of Clause 10. That said, I hope that the Minister will be able to give the noble Baroness some more clarity on what the Government in fact expect of organisations that will be subject to the duties set out in the Bill.

Baroness Anderson of Stoke-on-Trent (Lab): My Lords, first, I apologise, if I may, to the noble Baroness, Lady Falkner. Her amendment has moved between groups in the past 24 hours, and that was my error. I apologise.

I thank all noble Lords who contributed to the debate on this group, which includes Amendments 34A, 37A, 40A and 42A, tabled by my noble friend Lord Hendy, and Amendments 41 and 43, tabled by the noble Baroness, Lady Featherstone. I want to be clear that the Government agree that, where wrongdoing occurs, public officials should be able to raise concerns in confidence and be protected from retaliation. However, without repeating arguments I made from this Dispatch Box on the first day of Committee, the Government's view is that existing legal protections already provide safeguards for officials under the Employment Rights Act 1996. This Bill will require public authorities to maintain codes of ethical conduct that must ensure that workers are made aware of their whistleblowing rights. Further, the Government are seeking views on the operation of the whistleblowing framework via a consultation that was launched last week. We have already discussed the details of that consultation in Committee and, in the interest of time I will not repeat those points today.

I recognise the concerns expressed by noble Lords about the time required to move from consultation to reform. However, it is important to be reminded that the scope of this Bill applies only to the public sector, although whistleblowing is not an issue confined to the public sector. We would not want to introduce changes through this legislation that create inconsistencies within the wider whistleblowing framework. For those reasons, we believe it would be premature to legislate in this area before the consultation has concluded and the evidence has been fully considered. However, as I mentioned last week, I am looking forward to meeting noble Lords to discuss how we can use the code of ethical conduct to make clearer existing protections, and I ask that those interested feed into the government consultation. I look forward to that meeting with both my noble friend and the noble Baroness.

I want to provide additional reassurances to my noble friend Lord Hendy regarding his Amendment 43A, which seeks to make clear the definition of a qualifying disclosure. The Bill already provides for this by referring to the definition of protected disclosure in the 1996 Act, which, in turn, defines qualifying disclosure. Therefore, we do not feel this amendment is necessary—although I am very aware that I am having an argument with an employment rights lawyer, so I am sure the conversation will continue.

I fully recognise the intention behind Amendment 147, highlighted by the Opposition Front Bench, and the importance of ensuring that Parliament and the public understand the impact of these measures. However, bereaved families and victims rightly expect the Government to implement the provisions in this Bill promptly and effectively. The Government are therefore keen to maintain momentum towards implementation and are not persuaded that additional measures are necessary to achieve that objective.

As noble Lords will be aware, the Government intend to publish a revised impact assessment following Royal Assent, which will provide an updated assessment of the measures contained in the Bill. In the light of that commitment, the Government do not consider the amendment to be necessary, but, given the questions from the noble Lord, Lord Wolfson, I think it will be helpful if I highlight what the current impact assessment says about the estimated cost to public authorities of delivering Clause 10.

The code of ethical conduct provisions will create new burdens on public authorities, including local authorities. The provisions have deliberately been drafted to allow maximum flexibility in implementation. Given that most, if not all, public bodies will already be covered by a form of code, it is not anticipated that the cost impact will be substantial; some lawyers' time to assess compliance, management time and training—I am not, however, underestimating the cost of lawyers, given who sits in your Lordships' House.

The scale of these costs will depend on the number of public bodies within scope and the implementation plans informed by the legislation, the extent of the codes, how much can be standardised and so on, which can be fully determined only after Royal Assent, once Members of your Lordships' House have done their job of scrutiny. A further assessment of impact will take place alongside the development of our implementation plans and underpinning guidance, and a new burdens assessment will be developed at the appropriate time.

I hope that answers the questions raised by noble Lords. I respectfully ask my noble friend to withdraw his amendment.

5.45 pm

Lord Hendy (Lab): My Lords, I am grateful to the noble Baroness, Lady Featherstone, for her amendments, which appear consistent with those that I have put forward. I thank the noble Lord, Lord Wolfson, for his amendment and contribution. I will say no more about it, in the light of what has fallen from my noble friend just now, except that the protection currently given by the whistleblowing legislation is not considered to be adequate by many who practice in the field. Given that the code of conduct that is proposed is only for the public sector and only in the circumstances required by Clause 2, it appears to me that there is real justification for a higher degree of protection than that offered to whistleblowers.

I thank my noble friend the Minister for her contribution. In the light of what she has said about ongoing consultation and conversations to continue, I beg leave to withdraw my amendment.

Amendment 34A withdrawn.

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): I advise the Committee that, if Amendment 35 is agreed to, I cannot call Amendments 37 to 49 for reasons of pre-emption.

Amendment 35

Moved by ***Lord Alton of Liverpool***

35: Clause 10, page 10, line 31, leave out subsections (3) to (14) and insert—

"(3) Within 12 months of the day on which this Act is passed, the Secretary of State must lay before Parliament regulations to make provision for a single national code setting standards of ethical conduct expected of public officials (the "core code of conduct").

(4) The core code of conduct must—

(a) be based on the principles set out in subsection (2),

(b) apply throughout the United Kingdom to public officials to whom this Chapter applies,

(c) set standards concerning ethical conduct, candour, transparency and frankness in the performance of public functions, and

(d) make provision about the practical application of those standards.

(5) In addition to the core code of conduct, the regulations under subsection (3) must also contain—

(a) the sanctions available for non-compliance with the core code of conduct,

(b) provision for the independent investigation and determination of alleged non-compliance,

(c) provision for the imposition and enforcement of sanctions,

(d) appropriate provision for review or appeal, and

(e) provision ensuring that the arrangements apply to conduct occurring while a person was subject to the core code of conduct notwithstanding that the person has subsequently ceased to hold the relevant office, employment or position.

(6) The regulations must secure procedures which are independent and procedurally fair.

(7) Nothing in this section prevents the regulations from making different procedural provision for different descriptions of case or sanction, provided that the requirements of subsection (5) are satisfied.

(8) A public authority must take reasonable steps to promote compliance with the core code of conduct and to ensure that public officials for whom it is responsible are made aware of the core code of conduct.

(9) The application of the core code of conduct to conduct occurring while a person is subject to it is not affected by the person subsequently—

(a) ceasing to hold public office,

(b) ceasing to be employed in public service,

(c) resigning,

(d) retiring,

(e) being dismissed,

(f) ceasing to perform a public function, or

(g) otherwise ceasing to be a public official.

(10) Accordingly, cessation of office, employment or public function does not of itself prevent—

(a) an allegation of non-compliance being made or considered,

(b) an investigation into the conduct,

(c) a determination as to whether the core code of conduct was breached,

(d) the imposition or enforcement of any sanction otherwise available in respect of that breach, or

(e) any review or appeal arising from such a determination or sanction.

(11) Regulations under this section are subject to the affirmative procedure.

(12) Before laying draft regulations under this section the Secretary of State must comply with section (Core code of conduct: consultation and Parliamentary report).

(13) In this Chapter—

"public authority" has the meaning given by Part 3 of Schedule 2;

"public official" has the meaning given by Part 2 of Schedule 2."

Member's explanatory statement

This amendment replaces separate codes adopted by individual public authorities with one national core code of conduct made by affirmative regulations. It also preserves accountability for conduct occurring while a person was subject to the code notwithstanding that the person later leaves office, employment or public service.

Lord Alton of Liverpool (CB): My Lords, the noble Lords, Lord Hendy and Lord Wolfson, and the noble Baroness, Lady Anderson, have provided the Committee with a very good curtain-raiser for Amendment 35.

This amendment stands with Amendments 51 and 61, in my name and those of my noble and learned friend Lord Hope of Craighead, and the noble Lords, Lord Murray of Blidworth and Lord Marks of Henley-on-Thames. I am grateful to them, and indeed to other Members of your Lordships' House who spoke at Second Reading and between then and now on this issue of one central ethical code.

I also thank the noble Lord, Lord Lemos, for his unfailing courtesy and engagement. He met my former Liverpool constituents, the mother and the sister of Andrew Devine, the 97th fatality at Hillsborough, and heard their anxieties about a plethora of conflicting and inconsistent codes of conduct, instead of one clear central code, capable of adding codicils or variations but clear on its essential elements. I acknowledge at the outset the importance of securing the enactment of this Bill without unnecessary delay, and I certainly have no intention of adding to that delay. I might say that I have just spotted the noble Baroness, Lady Levitt, also in her place, and she too met the family of Andrew Devine. Both the noble Baroness and the noble Lord, as Ministers, have been exemplary in the way that they have dealt with the families still suffering grief after all this time.

The proposals in these amendments rest on three linked pillars: first, a single core code of ethical conduct; secondly, an effective framework for considering civil sanctions for serious non-compliance, and, thirdly, education and cultural change. In a way, each one reinforces the other. Clear standards should be understood, serious breaches must carry credible consequences, and our ambition must be to prevent misconduct in the first place.

Although Hillsborough brought us to this point, the Bill must serve far more than those affected by Hillsborough or by other disasters involving many victims. We have heard many of them referred to during earlier parts of our proceedings today. The protection afforded by a core code and the means of securing accountability for its serious breach must never depend on the number of victims or the profile or the publicity which their case receives.

I want to acknowledge a letter which the noble Lord, Lord Lemos, sent me only this morning, following a question that I raised last week in Committee and also at Second Reading concerning the duty of candour on universities where a student or academic may have died by suicide. That letter has been placed in the Library, and I hope that we can consider its implications on another group of amendments later in our proceedings. It obviously also has some relevance on a code of conduct that should be applicable to all.

The first pillar I have referred to is the core code, a single national code that would state the obligations everyone exercising public functions should recognise: honesty, integrity, candour, accountability, the proper keeping and disclosure of information, the correction of known error and service to the public. The Government said in answer to my Question HL3290 that approximately 6 million public sector workers are within scope of the requirement of codes. That is a powerful reason to make the common ethical foundation clear, accessible and consistent. In Answers to HL3135 and HL3136, Ministers have emphasised flexibility for individual authorities. I accept that need, but why should flexibility prevent a common minimum standard? If approximately

6 million people are covered across a large number of authorities, it makes little sense for each to reinvent substantially the same fundamental ethical obligations.

The common core should be worked out, consulted upon, as the noble Lord, Lord Wolfson, said a few moments ago, and approved nationally. Authorities could then add specialist provisions. That would promote consistent understanding, avoid near identical codes and simplify future revisions. The code need not be fixed for all time in primary legislation. The Act can provide the authority, purposes, consultation duties and safeguards as our amendment seeks to do. The detailed core code and subsequent revisions could be made by, as we have argued, delegated legislation subject to affirmative approval by both Houses of Parliament. Parliamentary control and practical flexibility can then reinforce one another.

The second pillar of the amendment concerns sanctions. We are not asking Parliament now to fix the amount of a civil penalty, prescribe pension-related consequences or enact a completed sanctions scheme, but we do ask for a proper process of consultation and legislative development addressing the nature of sanctions, independent investigation and decision-making, fair procedures and appeal. Any eventual penalties must have adequate statutory authority and proper parliamentary scrutiny.

In November 2025, Sir Keir Starmer referred to disciplinary sanctions, including gross misconduct. At Second Reading on 1 September, the noble Lord spoke of expectations and consequences for breaches. The Government's 2026 February annual report responding to the Grenfell Tower inquiry referred to departmental discipline and sanctions for egregious breaches. The outstanding question is how to make the principle effective where present mechanisms leave gaps. If enforcement is wholly at the discretion of individual authorities, common standards may be enforced inconsistently. One authority may investigate rigorously while another does not. Institutional self-interest, reputation or seniority may influence decisions or appear to do so.

One gap we might consider arises when serious misconduct does not appropriately lead to criminal proceedings, but internal employment discipline is inadequate. Another arises where the individual has retired, resigned, transferred or otherwise left office before a complaint is resolved. In reply to my Question HL3137, the noble Lord said that authorities are responsible for disciplinary consequences for those who work for them, but that does not answer the question of what happens when they no longer do. The consultation should address that question expressly with fair time limits and protection against retrospective punishment.

In HL3138 I asked how an individual could obtain an independent investigation and a remedy where internal discipline was inappropriate. The answer was that methods and outcomes depend on the circumstances and the authority. How, then, are the public to have confidence in consistent and independent enforcement, particularly where the authority itself is implicated? What common minimum safeguards will prevent serious cases being overlooked? Honest mistakes promptly disclosed and corrected should not be treated like deliberate concealment, obstruction, retaliation or persistent misconduct.

The third pillar of these amendments is education and sustained cultural change. The ambition should extend beyond instructing current public servants about employment obligations. The national core code should become a common civic standard. Its principles of honesty, candour, accurate records, fair treatment, correcting mistakes and raising concerns should be taught progressively from an early age. Citizens would then know what to expect of those exercising public power. A junior official could refer to a recognised common code when questioning an improper instruction. I ask the noble Lord to involve the Department for Education in considering teaching materials, consultation with teachers, a modest pilot and evaluation, building on existing citizenship education. Education alone is insufficient. Sanctions cannot create ethical culture. Together with leadership and fair enforcement, they offer a prospect of prevention.

Let me also briefly cite international comparisons, which offer useful experience, not ready-made templates. The United States has common federal executive branch ethics standards and ethics training; Canada has a federal values and ethics code with organisational supplements; Australia has statutory public service standards and graduated employment sanctions; New Zealand has an updated public sector code, effective in March this year, with common standards and organisational supplementation; and Ireland has an ethics commission with complaints investigation functions. These systems differ constitutionally and in scope. The relevant questions are: how common and specialist standards fit together, how guidance and training work, who examines serious complaints where an authority is implicated, and what happens after employment ends. Australian public service guidance, for example, makes it clear that employment sanctions cannot be imposed on a former employee. Consultation should test both the strengths and limitations of such approaches before any model is adopted.

Then, there is the question of economy. A common ethical foundation, drafted once, could reduce duplication in drafting, legal review, publication, training and revision. Amendment 51 concerns consultation and parliamentary process; Amendment 61 seeks consistency between the national core and other guidance, and they complement Amendment 35.

I ask the Government to accept the three principles I have outlined to the Committee: a common ethical foundation capable of revision under parliamentary control; consultation on proportionate and independently administered civil consequences for serious misconduct, including after departure from public employment; and education and sustained leadership as part of the cultural change. I beg to move.

Amendment 35A (to Amendment 35)

Moved by ***Lord Hendy***

35A: After subsection (4)(d) insert—

"(e) provide that a person who works, or has worked, for a public authority and who makes, on the basis of a reasonable and genuine suspicion, an

allegation that a public official or a public authority has breached the code must not be subject to dismissal or detriment (by act or omission) by or on behalf of that authority, or any person acting at its instigation, where such dismissal or detriment is wholly or mainly the consequence of making such allegation."

Member's explanatory statement

This amendment seeks to protect current and former employees of public authorities who report suspected breaches of the code. It seeks to prevent them from being dismissed or treated unfairly because they have made an allegation, provided that they acted on a reasonable and genuine suspicion.

Lord Hendy (Lab): My Lords, I am very happy to support the amendment proposed by the noble Lord, Lord Alton, and pay my respects to the persuasive exposition of the principles that lie behind it. I have two amendments in this group. The first is intended to give similar protection against dismissal, detriment, bullying or harassment for somebody who makes an allegation of breach of the core code on the basis of reasonable and genuine suspicion, as in my earlier amendment, but this time directed to the national core code that the noble Lord proposes. Likewise, the second amendment states that in that national core code, as before, consultation should be with the recognised trade unions in the public sector, together with taking into account the views of ACAS. I beg to move.

Lord Bichard (CB): My Lords, I strongly support this group of amendments. As I said at Second Reading, Clause 10 is for me perhaps the most important clause in the Bill because it is about improving the standards of behaviour of every public official and preventing some of the failures we have all talked about so often in the recent past. It is about preventing, not addressing them after the fact. If we are going to achieve that, if we are going to achieve the improved standards of behaviour I think we all want, we need to craft legislation that makes a real difference on the ground in every public service organisation and that is familiar to every public servant. What we do not need is a perfect statement of good intent that has no practical impact because as I keep saying, and as the noble Lord, Lord Wolfson, said earlier today, all the recent failures have occurred in spite of the existence of the Civil Service Code, the Ministerial Code, the Nolan principles, the Business Appointment Rules—I could go on and on. These statements of good intent have too often been ignored, and we do not need more.

My fear is that, as drafted, Clause 10 will not bring about real improvements on the ground. Indeed, as drafted, I think it is likely to make matters worse. I know from my conversations with the Minister that that is absolutely not his intention; nor do I think it is the Government's intention.

6 pm

In its current form, the Bill could lead to a vast number of different codes. Notwithstanding the advice from the mysteriously named "appropriate national authority", the public will find that confusing, difficult to understand and difficult to access. Accountability will suffer. Staff moving from one public sector organisation to another will have to come to terms with slightly different interpretations of ethical behaviour. It just cannot work.

I know that codes and words alone can never be guaranteed to change behaviour without very strong and determined leadership, but to stand a chance of making a difference and having a positive impact, they have to be clear, succinct, simple, memorable, accessible and realistic. For me, that means that we need one core code which applies to every public service organisation and every public official. We need a code which makes it clear that the welfare of the citizen is the first priority, ahead of senior managers, Ministers or the reputation of the department. We need a code with teeth, which cannot easily be circumvented by resignation or retirement. We all know this happens too often at the moment.

Amendments 35 and 51 may need further development, but taken together with the other amendments they would, if agreed, provide us with a powerful new weapon to help rebuild the trust between the state and the citizen that has been so grievously damaged. I hope the Minister will commit to consulting and discussing further before Report on an amendment which does just that.

Baroness Falkner of Margravine (CB): My Lords, I wish to make some observations on the amendment. In doing so, I declare an interest, in that I am a distinguished fellow of the think tank Policy Exchange, which published a report on this Bill called *Legislating for Candour?* only last week.

My main remarks have to do with subsection (9) of the new text for Clause 10 proposed by the noble Lord, Lord Alton of Liverpool. In my understanding, it is intended to cover circumstances where the holder of a public office ceases to hold it, ceases to be employed by the public sector, or resigns, is relieved or is dismissed—in other words, is no longer effectively there to be accountable for their actions. I share the outrage that the public feel when people who are so clearly implicated in wrongdoing resign, generally on full pay, or move on or out, at the first whiff of having to account for their actions, and there is very little that can be done. I completely appreciate that; however, I wonder whether, in proposing this long and comprehensive new text to replace subsections (3) to (14), the proposers might have thought to do this in a different way. For example, instead of defining comprehensively in subsections (9) and (10) all the circumstances where an officeholder may no longer be in post, certain actions of the officeholder, rather than the circumstances, could be the subject of scrutiny, enforcement and sanctions. I say this because I have some experience of arm's-length bodies and other regulators, notably as a former chair of the Equality and Human Rights Commission. My personal experience is also informed by some work I did at the Bank of England, where for nine years I was a member of the enforcement decision-making committee. I will come to that when I move another amendment.

The point I want to share with the Committee is that, when you are a public official and you take actions in good faith, you take them on the basis of

advice you have received individually, or indeed collectively, in discussions with other employees of that organisation, other board members and so on, perhaps even including external legal advice. Once you depart that organisation, all your records, electronic or otherwise, do not belong to you; they belong to the public body you served. You have a requirement to hand in all your records, documents, discussions, informal advice, formal advice. I recall that, at one point at EHRC, that requirement also included Post-it notes. The challenge became identifying which Post-it note that had come unstuck from a document belonged to which page of which document. It can be quite a tortuous process. The arguments that informed your decision, which may have been made several years prior, are not yours to re-examine in trying to work out why you took the actions you took. You do not have an audit trail as an individual; all you have is memory and, hopefully, other witnesses who might have been in the room at the time and whom you have good relations with and can still contact in the hope that they will come to your rescue. The obligations arising from your earlier responsibility apply to you subsequently, according to this amendment, but you may have very little in terms of a defence.

I appreciate that the signatories to the amendment agree that a consultation would be carried out on any regulations the Government drew up, but I prefer the Government's own drafting of this Bill, which is fairly muscular in describing the code and seems to have been well thought through. I am not entirely convinced by the amendment.

A final question I have for the Government relates to the overarching obligation arising from the core code in Clause 10(3). This question has arisen throughout my reading of the Bill. We know that the former Prime Minister, Sir Keir Starmer, directed the Cabinet Secretary, Dame Antonia Romeo, to conduct an overarching review of the Civil Service's Code of Conduct. We know that the review is ongoing; I think she expects to report next year. One of the principal things the review will do is to look at several of the areas of the Bill relating to the duty of candour, specifically the seven Nolan principles. The Civil Service Code as it stands—and it is likely, if anything, to be strengthened—covers honesty, accountability and integrity. In one of our earlier debates today, on the destruction of public records, I was tempted to ask about integrity, but I did not wish to detain the Committee unnecessarily. I was tempted to point out that civil servants already have an obligation not to destroy but to hold all records; that comes under the duty of integrity clearly set out in the Civil Service Code.

My question for the Minister is: what will happen to that review and its relationship with this core code, and how will the two interact, or will the core code take precedence over the Civil Service Code? I say that advisedly because currently—and I disagree with the practice—not only does the Civil Service Code hold and apply to all civil servants but it allows different government departments to layer on and add their own separate codes, depending on their functions. We are potentially going to have a three-tier adherence to codes on the part of civil servants. One will be the departmental code, the second the overarching Civil Service Code and the third the codes envisaged in the Bill. I wonder whether the Government have reviewed how those three different aspects of ethical standards will apply to the 6 million or so civil servants, plus all non-departmental public bodies and arm's-length bodies.

Baroness Hamwee (LD): My Lords, before I turn to my Amendment 36, in response to the noble Baroness's points about officials who have retired, resigned and so on, I may be wrong about this but I seem to remember that the IOPC tackled that issue. There was a lot of concern about police officers who had retired or, more often, resigned, and that was tackled, to great general relief. I would have thought, surely, that a person caught up by this would have access to documents and so on. However, that is not central to my argument.

My Amendment 36 is not a hostile amendment to that of the noble Lord, Lord Alton; in fact, I consulted him before tabling it because we were both concerned that the IPA's particular experience should be made available where it can be useful—in this case, to the Secretary of State—that the IPA should be consulted and that the IPA's advice should have regard paid to it and contribute to the code of conduct. More generally, we are both concerned about writing the IPA into the Bill.

Lord Murray of Blidworth (Con): My Lords, I have put my name to Amendments 35, 51 and 61 in this group. I do not propose to add greatly to what the noble Lords, Lord Alton and Lord Bichard, have said about these amendments. In my view, the incorporation of a single code would result in a considerable saving of time and money.

My question to the Minister is: please could the department evaluate the difference in public spending and official time in having separate codes of conduct for all these public bodies, as opposed to one core code, as advocated for in the excellent amendment of the noble Lord, Lord Alton? I hear what the noble Baroness, Lady Falkner, says about the impact of subsections (9) and (10). For my part, as a signatory to these amendments, I am certainly prepared to look at that question. I entirely understand the gravamen of the problem that she identifies, but I do not think it undermines the central thrust that a core code is a good idea.

Lord Evans of Weardale (CB): My Lords, I would like to make an observation with regard to Amendment 35. I speak informed by my time previously as chair of the Committee on Standards in Public Life, now the Ethics and Integrity Commission.

I strongly support the suggestion in the Bill that there should be a requirement on departments to have an ethical code of this sort. It was quite astonishing to me, in talking to some departments, to find that there was very little by way of ethical guidance available to their staff, which seemed to me a significant gap. Indeed, one or two conversations with senior Permanent Secretaries who said they did not believe there were any ethical issues in their departments rather reinforced my view that we needed to make people concentrate their minds.

6.15 pm

Nevertheless, I have some reservations about the suggestion that there should be a single code. I can see the attractions of it, but there is a difference. We have a core of common values and principles in the Nolan principles. That is relevant across all departments and agencies, and it is important that there should be that commonality, but the way that that actually plays out with regard to particular departments will vary a great deal. What is ethical behaviour within an intelligence service might be very different from the way in which ethical behaviour plays out for a health professional or indeed for a regulator, and it would be quite difficult to draft a single code that illuminated those issues for staff in such different roles without having different codes. That does not mean that they should take a different approach to the principles, which are common, but it is about applying those in a way that helps people do their jobs on a daily basis.

It is not just about accountability. There are lots of other ethical issues that Governments and public service are faced with. There is quite a strong argument for requiring departments to draw up their own codes, thinking about their own business and how the principles apply to them.

Lord Marks of Henley-on-Thames (LD): My Lords, we on these Benches have been clear that we greatly welcome the Bill, but we wish to strengthen it. We believe that Amendment 35 and the introduction of a common code would add strength to the Bill and reinforce its effect.

In view of the disgraceful cover-ups relating to so many of the tragedies discussed in relation to the Bill, from Hillsborough onwards—Horizon, infected blood, Grenfell, Windrush and a shaming number of others—it is unsurprising that the public rationale and justification for the Bill have been founded in later cover-ups of past tragedies, which have been aimed at diverting blame for what happened away from those wholly or partly responsible. The Bill with these aims is laudable, but it could and should do so much more. Its importance lies not only in investigating and inquiring into the reasons why tragedy has happened; equally important is the ambition that the Bill should set enforceable standards for the conduct of officials in an effort to ensure that such tragedies are prevented before they ever happen, and that those standards should be enforced by reference to the criminal law. In this, I echo the words of the noble Lord, Lord Bichard, and others on this issue.

The ambition is there in the Bill. It is in the Long Title, which imposes

"a duty on public authorities and public officials to act with candour, transparency and frankness … to require public authorities to promote and take steps to maintain ethical conduct within all parts of the authority".

There is no limit in the Long Title confining the duty to inquiries and investigations. While Chapter 1 of Part 2 of the Bill deals with inquiries and investigations, the chapter that we are now considering—Chapter 2 of Part 2, and Clause 10 in particular—deals more generally with standards of ethical conduct, and it is far too weak in its enforcement.

Clause 2, which the principal amendments in this group seek to amend, provides principally that a public authority must promote and take steps to maintain high standards of ethical conduct at all times by people who work in the authority. It then sets out what is essentially a restatement of the Nolan principles, which were set out in 1995. We on these Benches believe that this part of the Bill as drafted lacks the teeth needed to enforce standards across public life so as to avoid likely tragedies before they occur.

We want the Bill to seize the opportunity to raise standards across public life in real terms. The Bill has often been described as requiring a change of culture, but for that it needs teeth to bite at all times. By our amendments we seek to make Chapter 2 of Part 2 as strong and important as Chapter 1 on inquiries and investigation. The Nolan principles are laudable and right but they have been around since 1995, and in principle long before then, yet these tragedies have happened. The principles need serious underpinning.

On the code, we support Amendment 35, which would provide, as the noble Lord, Lord Alton, explained, for a single national core code. That code would be—as it has to be—underpinned by regulations. It would establish not only the principles and the standards, but the practical application of those standards and procedures for their implementation and enforcement. The core code would not preclude specific bodies from promulgating and enforcing particular codes to supplement the core code where those are appropriate. There may well be good reason for such additional supplemental provisions, usually applicable to particular types of authority or areas of operation, but they should always be consistent with the core code.

Amendment 61 would make it clear that guidance specific to particular authorities must be consistent with the core code of conduct, and that no public authority may substitute its own code for the core code. But our starting point for this group is that we should avoid multiple different codes—one adopted by each different public authority—and aim to achieve a single set of standards in much more detail than the Nolan principles, applicable to the whole of public life and all officials. We see the prime advantages of this arrangement as being far more likely with a core code than with multiple divergent codes to command universal understanding of the standards expected of public officials.

A core code would lead to far more consistency. It would avoid conflicts between the codes of different bodies. What is okay for Hampshire should not differ from what is okay for North Yorkshire. A single core code would be likely to lead to a code of higher quality than multiple and divergent codes, if only because the concentrated expertise devoted to its compilation would lead to a better and more studied core code and more focused individual supplementary codes where necessary. A single code, moreover, would lead to a build-up of a single, comprehensible and authoritative body of case law, and experience of what works and how standards should properly be applied. Multiple codes, which might conflict, might risk the growth of satellite litigation where codes differ.

A single code would save resources—the noble Lord, Lord Murray, made that point—with one body established for drafting and updating it as the need arises. For every public body to have working parties to set up their own divergent codes and later to update them, no doubt at different times, would be a recipe for divergence and chaos. It would undermine public respect for the whole project and would be grossly wasteful of resources.

Amendment 51, to which I have added my name, would require a consultation and report on the code within a short timetable. The timetable has to be tight for a reason. These standards need to be in place quickly. We need to avoid further failures in our public life that damage so many lives and that demean the reputation of the United Kingdom for competent, fair and honest administration. We must recover that reputation, and this Bill could be a way to do so with a core code.

I add nothing to what my noble friend Lady Hamwee said on Amendment 36 about the need for involvement of the independent public adviser, which is plainly sensible and right.

This is an important group in making this significant Bill work in practice. I fear, along with others, that without a common core code—one that is clear, widely publicised, understood and applicable across the country, backed up by enforcement provisions and provisions of the criminal law—we will betray the hopes and the justified demands of past victims. Without it, we will risk selling out on the opportunity for this Bill to make actual adherence to high ethical standards a real achievement rather than an unrealised pipe dream.

Lord Anderson of Ipswich (CB): Putting what the noble Lord says together with what we just heard from the noble Lord, Lord Evans of Weardale, about the different nature of different public bodies, does he think, or do other Front-Bench spokesmen think, that there might be room for a middle way here: not one core code, but perhaps a core code for regulators, one for government departments and one for intelligence agencies? Would that not meet the noble Lord's concerns, while still streamlining the process, as the noble Lord and the Conservative Front Bench wish?

Lord Marks of Henley-on-Thames (LD): That is a very interesting and careful point, and I would expect nothing less from the noble Lord, Lord Anderson. I listened very carefully to what the noble Lord, Lord Evans of Weardale, said, and I appreciate the position from which he was coming. But, frankly, his analysis depended on relying on principles that have been in place for a very long time. He said on a number of occasions that the standards that applied had applied for a very long time. My argument, and the argument expressed by the noble Lord, Lord Alton, is that, that being the case, all the standards applied across different core codes would have a common theme: a common set of standards that would be at the centre of a core code.

It is of essence of my argument—and, as I listened to it, the argument of the noble Lord, Lord Alton—that there could be supplementary codes dealing with particular types of bodies and regulators. That, I suggest, is the answer.

This may not be a million miles away from what the noble Lord, Lord Anderson, suggests. I believe that, between now and Report and with the Government, we ought to be able to come up with a proposal for a core code commanding universal respect. I will give way to the noble Lord.

Lord Alton of Liverpool (CB): I am grateful to the noble Lord. Before he concludes, I want to reinforce his point that these two things are not completely irreconcilable. My noble friend Lord Bichard and I previously discussed the possibility of codicils being added to a core national code, but agreed that there need to be some essential elements that are common to all. That is the whole point of a common code, which the noble Lord has outlined extremely well.

Lord Marks of Henley-on-Thames (LD): I am grateful; we certainly agree on that, and I do not think the distances between us are irreconcilable. My central point is that this Bill, after all the failures there have been, requires teeth. It requires enforcement. It is backed up by provisions of the criminal law in relation to Chapter 1 of Part 2, but far less force is given to the prevention of tragedies before they occur. That is my central point.

Lord Wolfson of Tredegar (Con): My Lords, the original amendments in this group, starting with Amendment 35 in the name of noble Lord, Lord Alton, seek to implement a single national code of conduct. There are a number of amendments to that amendment.

I mention first Amendment 36 in the name of noble Baroness, Lady Hamwee, which seeks to ensure that this code of conduct has regard to the independent public advocate. Of course, we have debated the importance of the independent public advocate in previous groups. Logically prior, however, is Amendment 35A in the name of the noble Lord, Lord Hendy, and his Amendment 51A, which also seek to amend the proposal put forward by the noble Lord, Lord Alton.

In the previous group—these issues are related—we debated an amendment in the name of my noble and learned friend Lord Keen of Elie, which sought to ascertain the expected cost of implementation of codes of ethical conduct. The Government's answer to that group was that we would be told only after Royal Assent. That seems to be the Government inviting us to dine in a restaurant where you are told the price of your meal only after you have ordered it, been served it and eaten it. That may be a point we will come back to on Report.

6.30 pm

More generally, one of the difficulties of this Bill is that it does not fully consider the impact on public authorities of creating their own codes of conduct. If creating a single code made that process both simpler and more cost effective, as long as it was an appropriate code of conduct, we would be open to that proposal. I suggest that the Committee needs to hear from the Minister a comparative assessment of the costs and burdens imposed by Clause 10, as drafted, and the same assessment of the proposal from the noble Lord,

[Lord Wolfson of Tredegar]
Lord Alton. It seems that the Government might not have undertaken that work; if so, could the Minister either respond in this group, or at least undertake that he will write to the Committee with that detail. It seems to us to be information that we would need. It is very difficult to come to a reasonable judgment on this question without that impact assessment, because ultimately the issue here is comparing one thing with another. That comparative information, therefore, seems to me to be at the heart of this debate.

Amendments 51 and 61, also in the name of the noble Lord, Lord Alton, expand on the concept of the single code of conduct with a consultation requirement. Another prevents public authorities replacing the national code with their own authority-specific code. Again, these also warrant consideration from the Minister. Perhaps a single code is indeed the solution to the burden that creating authority-specific codes would otherwise create.

That, of course, brings me to the suggestion made by the noble Lord, Lord Anderson of Ipswich, towards the end of the debate, before I rose. It was—if I can respectfully paraphrase—that if one size does not fit all, perhaps three sizes might fit all. I would also adopt the response of the noble Lord, Lord Marks of Henley, that it is an interesting suggestion. I mean "interesting" in the positive sense, not "interesting" in the way that the civil servants used to say to me when I was a Minister, "That is a very interesting suggestion, Minister", meaning, "We'll put it in the wastepaper basket and just forget about it". I genuinely mean that it is a very interesting suggestion and I will certainly think about it further. Again, if the Minister has not had enough notice of that point, perhaps he might include it in any letter to the Committee on the issues raised in this group.

Lord Lemos (Lab): My Lords, I do not go to restaurants which do not have the prices on the menu.

This has been an important and constructive debate about what we all agree is a very important issue that goes to the heart of what we are trying to achieve here in terms of the culture change that we have talked about throughout these discussions.

I begin with the amendment from the noble Lord, Lord Alton, which seeks to introduce one national code of conduct and to prevent authorities adopting their own separate codes. Before I comment on that, I would like to thank the noble Lord for his time in meeting with me—we have now had several discussions on this—and for arranging for me to meet the family of Andrew Devine to discuss the Bill. I very much appreciated that; it was a very moving occasion.

I thank the noble Lord for those kind remarks about unfailing courtesy. I am not sure that is a description my family and friends would recognise—but different strokes for different folks. I appreciate that the intention of this amendment is to strengthen the provisions in the Bill on ethical codes by trying to prevent public authorities adopting codes which may risk being watered down. I entirely accept that. I can also understand why some campaigners, bereaved families and victims are keen to strengthen these provisions, given the appalling way, as we have all agreed, that they have been treated by the state in the past. Our intention under the Bill is to ensure that codes of ethical conduct are tailored and accessible to the needs of individual sectors. The noble Lord, Lord Evans of Weardale, gave a very elegant and eloquent description of why that might be important.

The Bill covers a broad range of public servants and different working environments where a single code may may be too general. All noble Lords—certainly the noble Lords, Lord Marks and Lord Alton—have accepted that there may be some things which need to be specific, and therefore something too general may not be sufficiently specific to drive meaningful cultural change. The Bill will ensure that every public authority is required to reflect on how to embed a duty of candour within a tailored code of conduct specific to their organisation and sector. The Bill provides clarity on what these codes must contain as a minimum. We will publish statutory guidance after Royal Assent, which will support public authorities to make impactful codes that will drive ethical behaviour throughout the organisation.

The Government are keen for the provisions on codes of ethical conduct to be implemented within an optimal period post Royal Assent. However, I can understand the concerns that have been raised and a need to ensure that we are clear on what is expected and required in each code. Therefore, I am very happy to commit to working with noble Lords in this debate, and other Peers, on how best we can achieve this. And, of course, we will talk about the questions about resources which the noble Lord, Lord Wolfson, and others have raised. I cannot promise to write with a detailed assessment, for the reasons that my noble friend gave, but we are obviously mindful of the resources point and we are very happy to debate it.

I now turn to the amendment tabled by the noble Lord which would require a consultation on a single national code of conduct, sanctions and enforcement arrangements. It is right, when we are designing what is required in a code of ethical conduct, that we consider the views of those who represent public servants, experts, and those with lived experience of grave injustices at the hands of the state. I am not convinced at this stage that a single code of conduct is the most effective way to achieve the cultural change we are seeking, but I am open to considering how best we can engage with relevant stakeholders when considering how we can strengthen the provisions of the Bill on codes of ethical conduct. I hope noble Lords know that I will continue to work closely with noble Lords on this.

In the same vein, turning now to my noble friend Lord Hendy's amendment, which builds on the proposals of the noble Lord, Lord Alton, I hope the noble Lord will forgive me for not going into too much detail, as we discussed this matter earlier. However, I reassure the noble Lord that the Government consider that existing legal protections already provide safeguards for officials who speak up about alleged wrongdoing, as my noble friend Lady Anderson described earlier. The noble Lord, however, raises an important point regarding engaging with trade unions and relevant stakeholders, including ACAS, to ensure that their codes of ethical conduct were appropriately tailored

to their organisation. I will reflect on the comments he has made about today and would, of course, be happy to meet with him to discuss this ahead of Report

I now turn to Amendment 36 from the noble Baroness, Lady Hamwee, which builds on the proposal from the noble Lord, Lord Alton. Throughout the passage of the Bill, the Government have worked closely with members of the public who have been victims of major incidents and grave injustices, and we fully intend to continue this approach. I can assure the noble Baroness that there is ongoing policy work taking place around the role of the Independent Public Advocate. I have been in touch with the noble Baronesses, Lady May and Lady Sanderson, about that work. That is a very live discussion. So, we will certainly take into account the spirit of her suggestion in that conversation. But I have made clear from this Dispatch Box before that we see the role of the Independent Public Advocate in victim support and representation as a critical part of the future arrangements that surround major incidents.

I will deal with the question about retirement. Two or three noble Lords have raised this from different perspectives—not all in agreement. Current and former employees are covered by the code—the Government are quite clear about this—in an inquiry or investigation into an incident or event when someone was in post, even if they have retired since. We are very clear about that. I hear what the noble Baroness, Lady Falkner, says, but we are clear, for all the reasons that a number of noble Lords made, that people will still be covered by the duty of candour in those circumstances.

With regard to the code of ethics, obviously it is more difficult to apply something to people for whom it was not in place at the time they were there—but on the wider duty of candour, which is the principal thing, I think that I have made the position clear.

On the Civil Service Code—I responded to the noble Lord, Lord Young, about this—we are very clear that all codes which exist already will have to meet the requirements of the Bill. I would not have the temerity to suggest anything to the Cabinet Secretary, but once the Bill is passed and we know the requirements for the code of ethics and how they will be organised, she will have to ensure that whatever arrangements are in place in the Civil Service meet those requirements.

With these reassurances to continue the conversation—and I look forward to that—I ask noble Lords to withdraw their amendments.

Lord Hendy (Lab): I thank the speakers in the debate. In the light of what my noble friend the Minister has just said, I certainly wish to withdraw my amendment.

Amendment 35A (to Amendment 35) withdrawn.

Amendment 36 (to Amendment 35) not moved.

Lord Alton of Liverpool (CB): My Lords, I thank everyone who participated in the debate. I thank particularly the noble Lord, Lord Hendy, my noble friend Lord Bichard, the noble Baroness, Lady Hamwee, and the noble Lords, Lord Murray of Blidworth and Lord Marks, for their strong and supportive remarks in the debate—and I thank the noble Lord, Lord Wolfson, for what he had to say, too.

To go back for a moment to something that my noble friend Lord Bichard said, the state-citizen relationship has been grievously damaged; that is why he argued, as others have done, that we need to rectify that. Although reservations and caveats have been entered by the noble Lords, Lord Anderson and Lord Evans of Weardale, and the noble Baroness, Lady Falkner of Margravine, that is the central question: how do we rectify that grievous damage?

In another place, in 1995, Lord Nolan, who has been referred to quite a lot today by noble Lords, reported back to then Prime Minister John Major following the cash for questions scandal. I think of all the things that I was required to do during my time in another place, one of the most dispiriting things of all was to serve on the Committee for Privileges and to take evidence and inquire into cash for questions, due to the fact that a Member of Parliament, entrapped admittedly, was nevertheless willing to take £1,000 to table a parliamentary Question. Then, of course, much more that we heard about followed on from that. It brought Parliament into great disrepute.

Lord Nolan said at the time:

"The general principles of conduct which underpin public life need to be restated".

He also said:

"These principles apply to all aspects of public life".

Given that his report at that time meant so much to so many people and provided a framework, it was for its time. We are duty bound in our time to look again at what those principles that unite us might be and why it is essential that there should be a central core. Whether it is for reasons of expenditure, inconsistency, unnecessary duplication or whatever it may be, having a central code of conduct, of ethics, is the right way. It is something that we can add to in specific circumstances, which I think would attend to the point referred to by my noble friend Lord Anderson of Ipswich. There is nothing at all contradictory about those things.

At this stage, I do not want to reiterate or repeat the arguments, because the Minister has been very conciliatory in what he has said. I think he has got the mood of the Committee: we want to continue these discussions, we would want to bring it back on Report, and it might indeed even be one of the few things that might lead us to divide, if we cannot sort this out and get it right. I hope that he will meet those who have spoken in today's debate and give further consideration to how we might make the Nolan principles of 1995 relevant now, and how this amendment, which has enjoyed support from right across your Lordships' House, might be put, in some form, into the Bill. But with those words, I beg leave to withdraw the amendment.

Amendment 35 withdrawn.

6.45 pm

Amendment 37

Moved by ***Lord Marks of Henley-on-Thames***

37: Clause 10, page 10, line 35, leave out paragraph (b) and insert—

"(b) take all reasonable steps to ensure that those people—

(i) are aware of the code and the consequences of failing to act in accordance with it, and

(ii) comply with the code fully."

Member's explanatory statement

This amendment would replace the requirement for a public authority to make people who work for it aware of its code of ethical conduct with a requirement for the authority to take all reasonable steps to ensure that those people comply with the code.

Lord Marks of Henley-on-Thames (LD): My Lords, I should make it clear that we do not intend by the detailed amendments in this group to undermine our support for the establishment of a core code, for all the reasons that we and others have outlined in the last group. Our amendments in this group are directed to amending the Bill as drafted, but I should stress, as we stressed in the last group, that they are applicable to a single core code, taken together with any supplementary codes adopted by particular public bodies or authorities. However, all are directed to giving the codes teeth requiring compliance and strengthening enforcement.

Amendment 37 would strengthen Clause 10(3)(b), which requires a public authority to take steps to make people who work for the authority

"aware of the code and the consequences for failing to act in accordance with it".

Amendment 37 substitutes a much stronger position, which requires the authority to

"take all reasonable steps to ensure that those people … are aware of the code and the consequences of failing to act in accordance with it, and … comply with the code fully".

Amendment 39

"would require a public authority's code of ethical conduct to specify when a failure to comply with the standards of conduct must be referred for investigation as a potential criminal offence, in addition to setting out disciplinary consequences for breaches".

That ties in with what I said in the previous group about the importance of linking serious breaches of the code with criminal sanctions.

Amendment 44 would allow a public authority to

"adopt another document as its code of ethical conduct".

In a sense, that is applicable to the Bill as drafted rather than to when there is a core code, but it would provide, importantly, which would be consistent with a core code, that the document must not be modified

"in a way which reduces the standards of ethical conduct contained in it".

Amendments 46 and 47 would mandate consistency between codes and demand an explanation of how consistency should be achieved. That would be relevant to consistency between supplementary codes and a core code.

Amendment 55 would require a set of minimum requirements that any code must meet, including arrangements made to ensure compliance, which would have to be specified, and procedures which would have to be followed in the case of non-compliance.

From our point of view, the most important of the amendments in this group is the introduction of a provision for a new criminal offence of a serious breach of a code of ethical conduct. That is designed to supplement the offences of misconduct in public office and misleading the public which are already in the Bill. It is part of the business of giving teeth to the imposition of ethical standards, which we regard as so necessary. The codes are here to be obeyed.

The problem with the Nolan standards and with provision for ethical standards in authorities in the past is that there has been no criminal sanction and only moderate and ill-matched sanction by disciplinary proceedings—ill-matched in the sense that different public authorities have been free to use different sanctions. We regard it as very important that, ultimately, there should be recourse to the criminal law, where failure is knowing or reckless and where that failure is serious.

The amendment defines "serious". It has to be a failure which

"causes, or creates a significant risk of, serious harm to another person … involves dishonesty, corruption or abuse of public office",

which involves a "serious breach" of the Nolan principles, or which

"seriously undermines … confidence in the public authority or the proper exercise of its functions".

That would be punishable on summary conviction by 12 months' imprisonment or a fine or both, and on indictment by two years' imprisonment or a fine or both. It is a central feature of our suite of amendments and gives meaning to the imposition of compulsory standards.

We would not expect a vast number of prosecutions, but if we are serious about wanting a change of culture, we have to move from extolling standards to enforcing those standards. If serious breaches of the code lead to criminal proceedings, that best serves the aims of showing the public that we are serious about enforcing standards, for reasons of deterrence, to ensure that officials know that there will be serious consequences if they are guilty of a serious breach of the code, and a punishment which is a part of the process of penalties in the criminal courts.

We believe that serious cases of failure to comply with the code must be prosecuted. That is at the heart of our approach to accountability. It is backed up by a duty on public authorities to take all reasonable steps to prevent, detect and respond to possible offences, and by regulations governing the enforcement of the provisions of a code. Again, we say that it should be a common core code, supplemented by others. Criminal sanctions would apply whether or not disciplinary proceedings were brought. The minimum standards would have to reflect the Nolan principles. Under Amendment 58, there would be a periodic review of codes by the Ethics and Integrity Commission.

Together, this suite of amendments, we say, would make the enforcement of ethical standards a reality. We are very concerned that the Bill, as drafted, without those backstop provisions, would not do that. I beg to move.

Baroness Falkner of Margravine (CB): My Lords, this is probably an appropriate time for me to speak to my Amendment 63A, given that the noble Lord, Lord Marks of Henley-on-Thames, has set out the Lib Dem amendment. In doing so, I am required by

the *Companion* to declare my interest every time I intervene, so I declare my interest as a distinguished fellow of the think tank Policy Exchange. I am informed in the remarks I make by its recent report on the Bill, which is called *Legislating for Candour?*

My amendment would seek to deal with the effect of obligations imposed by or under Chapter 2. We know that Clause 10 will impose a new general duty on public bodies to promote and take steps to maintain high standards of ethical conduct at all times by people who work for the authority. Clause 10 also imposes a more specific duty to create and publish a new code of ethical conduct for people who work for the public authority. We have been discussing that for the last hour—so far, so good. This amendment aims to address or ameliorate the risk that these duties will expose public bodies to judicial review proceedings, which is likely to prove costly and undermine their ability to discharge their primary functions.

It is not clear whether the Government appreciate the risk that Clause 10 without amendment may give rise to new grounds on which to challenge public action in the courts, enabling the frustration of attempts to address serious policy problems, which is what we are trying to do here, and adding to the cost of doing government business. I say that advisedly at this stage because we know that the ability to crowdfund often vexatious attempts at judicial review is increasing by the day and that they are adding enormously to the cost of doing government business.

Outside the context of the Bill, the Government seem concerned about these risks. On 7 September this year, the Chancellor, the Attorney-General and the First Secretary of State sent a joint letter to Ministers about the simplification and agency of government. In the letter, the Government accept that

"in some instances it has become clear that the system of judicial review is out of balance"

and a disproportionate burden on effective government. The letter announces three changes and frames them in this way:

"We therefore wanted to set out three areas where this Government will act with greater alacrity—on consultations, on legal considerations, and on judicial review—as initial steps in what will be a wider programme of work to pare back counterproductive administrative burdens".

This is a commendable ambition; I certainly share it. It may be in some tension with the Bill in general, which certainly imposes significant new administrative burdens, as set out in the report from Policy Exchange that I highlighted. That paper notes that, as things stand:

"Every public body in the country, from a government department to a parish council or a further education college, acquires a new set of uncertain legal obligations layered on top of the existing"—

and already extensive and onerous—

"grounds for review".

In relation to Clause 10 in particular, the Government should make it clear whether they intend the duties in this clause to ground new applications for judicial review of the action of public bodies; that is, new grounds on which a court might block them. If this is the Government's intention, it seems very hard to justify. Why would one want to empower the courts to police the ethical conduct of public bodies, a task for which they are ill suited? It is true and important that courts protect natural justice, but enforcing a duty to act ethically or policing compliance with a broadly worded code of ethical conduct is much more general; it is an ill-defined task which we should not invite the courts to carry out.

If the Government do not intend Clause 10 to widen the grounds of judicial review, the Bill needs amending. Whenever a public body publishes a code, there may be a risk that third parties will challenge the public body's actions in court by reference to the code. There are numerous examples of that that I can send to the Minister. The risk is much greater when the code has a statutory footing, especially when, as with Clause 10, the code is intended to be a means to fulfil the more general duty of ensuring that those who work for the public authority act lawfully.

7 pm

The Bill as it stands practically invites the courts to interpret for themselves the codes that public bodies publish, which may result in public bodies being held to have acted unlawfully for having misunderstood their own codes. Relatedly, the courts are likely to treat the requirements in a published code as relevant to the exercise of public power, which means that public bodies may be held to have acted unlawfully because they fail to consider—or even adequately to consider—some provision in those codes. Even if many or most of the challenges on these grounds fail, they will be costly to defend and slow down and distort policy-making and action. It may take several years of costly litigation before we get clarity on how the courts will handle this clause and establish case law. Further legalising the process and governing in this way is not wise.

This amendment aims to address these risks by providing that the duties in Clause 10—including the requirements of any code published by a public body because of the clause—are not to be considered in court. The point is not that public bodies should be free to ignore these duties, but that Parliament would make clear that the creation of these duties would not expand the scope of judicial review. The amendment provides that compliance with the duties in question may be considered by any relevant inquiry or investigation, which of itself is a powerful form of accountability, or it may be considered by the Parliamentary Commissioner for Administration, who is an officer of Parliament. In addition, it would always be possible for parliamentarians to hold public bodies to account by reference to ethical conduct, including by reference to any code of conduct that they have published.

The amendment is loosely based on Section 4 of the Fiscal Responsibility Act 2010, which makes provision for political rather than legal accountability. That Act placed the Treasury under a statutory duty to bring public finances back into order on a fixed timetable. It had to ensure that public sector net borrowing as a share of GDP fell in several financial years in a row. The enforcement was left entirely to Parliament. The Treasury had to report on its progress alongside each Budget and pre-Budget report. Once the deadline had passed, it had to say whether the target was met and, if

[Baroness Falkner of Margravine]
not, to explain why. Section 4 required those reports to be laid before Parliament and declared them to be the only means of holding the Treasury to account for those duties. It then provided that a missed target, passed or anticipated, would not affect the lawfulness of anything done or left undone by anyone, so no court could quash a decision, grant a declaration or compel compliance. The sanction for failure was having to come to the House and answer for it.

Here, too, there is a good case for enforcing judicial duties by political and not legal means. The courts guard their jurisdiction jealously, but it would be a mistake to view this amendment as an exceptional limit on their powers. Parliament must decide whether and on what terms to enact Clause 10. It is for Parliament to decide whether the new duties in question are to be enforceable in court and whether this is sensible in view of the nature of the subject matter and the likely effects of making them justiciable.

This amendment is a means whereby Parliament could make it clear that, in enacting Clause 10, it is not intending to create a new, open-ended ground for judicial review proceedings. The duties in Clause 10 would remain duties, but their enforcement would not be left for the courts to police at great cost and much risk of unwanted side-effects, which will take years to be unveiled.

Lord Anderson of Ipswich (CB): My Lords, it is a pleasure to follow the noble Baroness, but I am afraid that not even her advocacy could persuade me that a failure by a public official or public authority to have regard to the requirements of a code or of guidance should be left entirely out of account by any court which might be called on to decide whether that conduct was improper, irrational, negligent or unlawful. Others, I am sure, will make the point more eloquently than I, but I wanted to record that before speaking, perhaps more prosaically, to my probing Amendments 60 and 62, which I have tabled with the support of the noble and learned Lord, Lord Leveson, and the noble Lords, Lord Carlile and Lord Evans of Weardale, who was—as mentioned earlier—chair of the Committee on Standards in Public Life until 2023.

The CSPL was replaced after the election by the Ethics and Integrity Commission, whose purpose, as billed in the Labour manifesto, is

"to ensure probity in government".

The EIC's terms of reference, published in October 2025, make specific reference to this Bill. They state under the heading "Responsibilities" that the EIC will:

"Advise public authorities on the development of clear codes of conduct with effective oversight arrangements, in line with the planned forthcoming obligations of the Public Office (Accountability) Bill".

Yet the Bill makes no reference to the EIC. It is given no formal role in the formulation of the codes—or code, as it may be—of ethical conduct under Clause 10, even as a consultee. The guidance issued under Clause 11 is to be issued by the central and devolved Governments, again without any involvement from the EIC.

The Minister told us at Second Reading—I am grateful to him for engaging on this—that the EIC would

"research and develop guidance … that will be published on its website".—[*Official Report*, 1/9/26; col. 111.]

However, given its intended status as the centre of excellence on public codes of ethical conduct, at least for England, I am mystified as to why the Bill does not give the EIC a leading role in formulating at least the statutory guidance provided for in Clause 11. That is the defect that Amendment 60 is intended to probe and, should it go further, to correct.

Amendment 62 raises a broader point. In its 2021 report, *Upholding Standards in Public Life*, the CSPL, under the leadership of the noble Lord, Lord Evans of Weardale, recommended placing a number of constitutional watchdogs on a statutory footing to give them at least the protections of Parliament. Bodies such as the independent Commissioner for Public Appointments, the Independent Adviser on Ministerial Standards and the Advisory Committee on Business Appointments have important constitutional functions, hard won over successive Administrations, in proofing our system against abuse of power, favouritism and corruption. Yet it would be the easiest thing in the world for a future Government impatient of such liberal notions to sweep them all away in a first-day bonfire of the quangos without the need even to justify their decision to Parliament. Until such time as it is placed on a statutory footing, the same will be true of the EIC. Amendment 62 would place a parliamentary lock on the abolition of the EIC in much the same way that my Private Member's Bill, the Public Service (Ethics, Integrity and Independence) Bill, introduced last Session, would have done for the other bodies I have mentioned.

The EIC's implementation plan of October 2025 warns that

"it will take time to develop and implement the EIC's new responsibilities"

and sets out an 18 to 24-month plan for the transition of the Committee on Standards in Public Life into the Ethics and Integrity Commission, subject to the necessary resources being in place. But there is no obstacle to the EIC being recognised in statute even before that transition is complete. I hope the Minister will agree that such recognition is desirable in principle and I look forward to his comments on how and when we might expect to see it.

Lord Carlile of Berriew (CB): My Lords, I support the amendments referred to by my noble friend Lord Anderson. But, before I turn to that, my jaw was dropping as I listened to my noble friend Lady Falkner's attack on judicial review. I say to her with great respect, because she is very eloquent and persuasive, that I am afraid I am not persuaded by her.

We are talking here about what is popularly called the Hillsborough Bill, but we have heard mentioned at every sitting of this Committee and on every part of this Bill a litany of events that have been disasters, despite the ostensible co-operation at all times of the public services. I listened earlier with great care to my noble friend Lord Bichard on these matters. At least some of that litany of horrific events came to light only because of the availability of judicial review and the ability judicially to question administrative action.

Sometimes it had to go to the highest court to achieve the prominence which those cases have rightly been given and for the Bill to arrive before this House.

I say to my noble friend that I have read the Policy Exchange report—I read it in detail yesterday afternoon and immediately penned my disagreement to the director of Policy Exchange, who is a Member of your Lordships' House, because it is just naive in the way in which it approaches the issues we are concerned with. I apologise in saying that to two of my noble friends who have been involved in writing the foreword and an introduction to the Policy Exchange report, but I do not agree with them either. I think they are missing the point about judicial review.

I turn now to what I intended to say.

Baroness Falkner of Margravine (CB): My Lords—

Lord Carlile of Berriew (CB): I will not give way to the noble Baroness. She should not have spoken before the rest of us in this debate, and I will not give away to her, I am afraid. I have said what I wanted to say and I do not want to prolong the debate on the issue.

In Clauses 10 and 11, which are probably in the wrong order, we have the mother and the children. The mother is the guidance, which is set out in Clause 11, and the children are the codes, which are described in Clause 10.

The amendments which have been mentioned, described and spoken to by my noble friend Lord Anderson are not about diminishing ministerial accountability—far from it; they are about ensuring that the guidance which governs the codes leading to the understood standards in public life is independent, respected and trusted. Those who hold power should, in my view, never be seen as having exclusive control over the ethical framework by which they are judged. Amendments 60 and 62 would ensure that there is no such power. They would ensure that ethical guidance should be issued by an independent body, not, for example, by Ministers—whether national Ministers or devolved Ministers—whose conduct may itself fall within the scope of the legislation.

Public confidence in standards in public life is enhanced by a clear separation between those who exercise power and those who oversee ethical conduct. These amendments would reinforce the principle that integrity and ethics should not be subject to political influence or the priorities of the Government of the day. The amendments would allow for UK-wide consistency in standards, while preserving the autonomy of Scotland, Wales and Northern Ireland, so far as it goes under our devolution settlement. Guidance issued by an independent commission is likely to command far greater confidence than guidance issued by Ministers, who, by definition, have party loyalties. It is for those reasons that I support Amendments 60 and 62.

Lord Evans of Weardale (CB): My Lords, I support Amendments 60 and 62, which have been eloquently explained by the noble Lords, Lord Anderson and Lord Carlile.

When I first read the Bill, I was surprised to find that the Ethics and Integrity Commission was not mentioned. It is a piece of machinery that the Government have taken the time and effort to reinforce, since it was the Committee on Standards in Public Life, which I chaired, and it is ideally built to do the sort of work that is in the Bill. It is the right piece of machinery. One of the reasons for that is the fact that it has on it representatives of a variety of different parties, as is evident merely by looking around the Chamber today: the noble Baronesses, Lady Finn and Lady Beckett, and the Minister who has just arrived were all members of the committee. The committee has extraordinarily good representation from the political world, as well as independent members. Using it for this particular role would definitely be the right way to go.

As the noble Lord, Lord Anderson, pointed out, the current arrangements are inconsistent. The CSPL did not recommend that it itself should be put on to a statutory basis out of modesty, but we recommended that regulatory bodies that have an ethical dimension need to stand with appropriate independence and with the confidence that they are not easily abolished by the Government of the day. The amendment would provide for that. From that point of view, I commend it to the Committee.

7.15 pm

Lord Wills (Lab): My Lords, this might be an appropriate time to turn to my Amendments 45 and 48. Amendment 45 addresses some of the issues that we have already heard extensively discussed in your Lordships' House. I hope it might be helpful to the Government in negotiating important but challenging issues. It recognises that there may be differences between and within organisations as to the content of their ethical codes of conduct and that this could, among other things, result in ambiguities, which could lead to misunderstandings, and that in turn could lead to serious consequences for individuals. The amendment would allow the Secretary of State to engage with public authorities to assess where such ambiguities might need to be removed and what might be needed to unify them all and, where appropriate, to create a statutory binding list of obligations. It is a simple measure that would empower the Secretary of State in due course to take further action to deliver as effectively as possible the objectives of this landmark Bill.

Amendment 48 would remove the ability of a public authority to exclude from its published code disclosures that are contrary to the public interest. Too often, we have seen how the definition of public interest adopted by a public authority is at odds with the definition adopted by a majority of the public. I would be grateful if my noble friend the Minister, if he was so minded, could give me some examples of how the public interest could justify exclusions from a code of ethical conduct. I hope he will agree with me that it is in the public interest to know what standard the public can expect of the public bodies they may interact with and what standards those bound by the duty are expected to meet. What possibly could need to be upheld? I add that, in the light of all their bitter experience, the Hillsborough families are in favour of the amendment.

Lord Wolfson of Tredegar (Con): My Lords, Amendment 37, in the name of the noble Lord, Lord Marks of Henley-on-Thames, seeks to make the compliance of the codes of ethics stricter, but, I suggest, perhaps a little too strict. Amendment 39 seeks to require the codes to set out the disciplinary measures that would be taken. This may be difficult in sectors that already have detailed and complex conduct and disciplinary regimes, such as the police. The interplay between what is set out in Amendment 39 and those existing regimes is not immediately clear.

Amendments 44, 46, 47 and 58 refer to and require a consistency of the codes, which is obviously sensible, but further discussion is necessary to determine what it is intended to be consistent with. As it stands, there does not seem to be a baseline expectation as to which codes can be consistent. As I read them, the Government would need to accept these amendments alongside Amendments 55 and 57.

Amendment 56 seeks to create a criminal offence for breaches of codes of conduct. There is a real concern that if the codes of conduct are going to lead to criminal offences for breach then the drafting of the codes would become even more burdensome than they would be at the moment, because they would have to be used in court and be sufficiently clear that people appreciate precisely what it is they need to do, as breach would be a criminal offence. This is a point I think we will come back to in some future groups, either later this evening or on another occasion.

There is a further problem with this amendment's proposal that breach could be a criminal offence because, as matters stand, and subject to our earlier debate on a single code, under Clause 10 different public authorities will draft their own codes of ethical conduct for themselves. That could result in the very odd—one might say perverse—outcome that an employee of one authority finds themselves in breach and hauled before the criminal courts, while an employee of another authority does not face sanction for the very same action because there is a subtle difference between those authorities in the drafting of the code of conduct. To take the example used by the noble Lord, Lord Marks of Henley-on-Thames, in an earlier group, that would be a manifestation of the Hampshire and North Yorkshire problem. It speaks to the proposal from the noble Lord, Lord Alton of Liverpool, for a single code, which I know the Minister spoke to earlier and said he would consider carefully before Report.

Amendment 59 draws on a similar point to that of my previous amendment in group 3: namely, that guidance is essential throughout the implementation phase of the Bill.

I turn to the amendments in the name of the noble Lord, Lord Wills. Amendment 45 seeks to allow the Secretary of State to make further provision about the expected standards of ethical conduct and a public authority's code of ethical conduct, which, with the negative procedure, could lead to insufficient scrutiny. Amendment 48 seeks to remove the public authority's right to exclude from its published code information that would be contrary to the public interest. I can see potential examples of authorities where the exceptions permitted in paragraph (c) might protect real interests. I look forward to what the Minister says on that point.

Amendments 60 and 62, from the noble Lord, Lord Anderson of Ipswich, seek to place a larger emphasis on the Ethics and Integrity Commission, including by placing some of its duties on a statutory footing. There is a cost aspect to this that concerns me. I also wonder whether we should always legislate for what we fear a future Government might do.

Amendment 63A, in the name of the noble Baroness, Lady Falkner of Margravine, seeks to require breaches of codes of ethics to be considered only in inquiries or investigations, rather than in legal proceedings. As I understand the purpose of the amendment, it is to confirm that such breaches are not themselves justiciable, including, as I understood the noble Baroness's speech, in any judicial review proceedings. I certainly sympathise with the intention behind the amendment, although perhaps the real culprit is the creation of all these codes of conduct in the first place. I assure the Committee that, where codes go, the lawyers will certainly follow.

On that point, which might command general support, I look forward to hearing what the Minister says.

Lord Lemos (Lab): My Lords, it is hard to disagree with that. As mentioned in the discussion on the previous group—to some extent, that group and this group hang together—the Bill is drafted to ensure that public authorities are required to make and publish codes of ethical conduct tailored to their organisation and sector. As we have discussed many times, ensuring that these codes of ethical conduct are sufficiently detailed to drive culture change within public authorities is an important part of delivering the spirit and intention of the Bill.

I turn first to my noble friend Lord Wills's Amendments 45 and 48. I appreciate my noble friend is keen to ensure that the Government will be able to make future changes to ensure that the Bill remains a vehicle for meaningful and sustainable culture change across the public sector and public authorities. We are actively considering options for post-legislative scrutiny—we will come back to this, I am sure—to monitor the success of the Bill in driving culture change across public authorities. I want to make it clear that that is one of the objectives we have for the Bill. I will therefore set out proposals in due course, and I am happy to discuss them with my noble friend and others before Report.

On Amendment 48, my noble friend will understand that there may be circumstances where information is sensitive and publication may have detrimental effects for the organisation, individually or more generally. Our current approach allows organisations to develop more detailed codes of ethical conduct containing sensitive information for employees while omitting such material from versions of the code published publicly. However, I understand my noble friend's concerns about transparency. I am very happy to explore transparency between now and Report, so that we can ensure that the expectations are clear and everyone, including the people who work for public authorities, knows where they stand.

I turn to the package of amendments—it is right to see them as a package—from the noble Lord, Lord Marks. These seek to strengthen the provisions of codes of

ethical conduct in Chapter 2 and, to use the phrase he used several times, give them more teeth. I am grateful for the time the noble Lord has already spent with me, including during recess, to discuss the intentions behind these amendments in more detail. I will reflect carefully on the points that have been made. I will discuss them further with officials to consider whether there is merit in exploring any of these issues ahead of Report, and I will certainly discuss them with the noble Lord, Lord Marks, and others. Our initial assessment is that we agree there needs to be consistency across the codes, and we are open to strengthening the provisions in the Bill. I assure the noble Lord and your Lordships' Committee that the Government will issue statutory guidance to public authorities concerning codes of conduct.

The intention behind Clause 10(6) is that modifications can be made to existing codes to bring them up to the standards required in the Bill. Evidently, modifications cannot be made such that they do not comply with the requirements of the Bill. Further, the Bill already requires authorities to take steps to make employees aware of the code and the consequences of non-compliance as part of their duty to promote and maintain high standards of ethical conduct at all times. The Bill already creates a number of new offences, alongside existing criminal offences, which may apply to public officials. Codes of ethics will cover a wide range of conduct, not all of which is appropriately dealt with, in the Government's view, through the criminal law—a point that the noble Lord, Lord Wolfson, also made. Our initial assessment is that a general offence of breaching a code of ethics would not be clear, proportionate or necessary. Public officials are subject to a number of laws within the Bill, and we would need to consider the practical implementations of attempting to list all these in codes. However, this debate has been extremely helpful in testing the issues that the noble Lord, Lord Marks, raised about the strength and the teeth of the Bill, and I look forward to continuing those conversations before we get to the next stage.

The noble Lords, Lord Anderson of Ipswich and Lord Marks, both tabled amendments relating to the codes of ethical conduct and the role of the Ethics and Integrity Commission. The EIC, which was established by the former Prime Minister as a centre of excellence on codes of conduct, has already been commissioned—the noble Lord, Lord Anderson of Ipswich, specifically asked about this—to develop best practice guidance for public authorities on how codes of ethical conduct can be used to drive cultural change, so it already has some standing on this. Its call for evidence to inform this work closed in September, so we see it as involved in all this.

Lord Anderson of Ipswich (CB): Can the Minister clarify whether that guidance relates to the content of the codes or simply to the way that they can be used?

Lord Lemos (Lab): That is something we will need to cover in guidance. I anticipate—I will correct this if I am wrong, but I do not think that I am—that the EIC will want to comment on the contents, which I think is what the noble Lord was driving at.

Public authorities rightly expect the Government to provide them with clear guidance about what is necessary for compliance with the Bill, and we will do that. We are therefore preparing statutory guidance that will be available when this clause is commenced. Our expectation is that public authorities will draw on both sets of guidance when developing their codes, ensuring that they not only comply with the requirements of the legislation but are informed by evidence-based best practice.

The Government do not consider it necessary to place the functions of the EIC on a statutory footing. As it is an advisory body whose role is to provide independent advice to the Government, the current arrangements are entirely appropriate. The EIC is an independent body and it is not necessary to prescribe its role in legislation. Moreover, given its independent status, it would be inappropriate to place it under a statutory duty to assess whether codes of practice published by public authorities comply with the terms of the Bill. The EIC's remit extends well beyond the matters addressed in this legislation. Its wider purpose is to promote the highest standards in public life. Conferring what, in effect, would be a regulatory function upon it would, in the Government's view, risk undermining that broader role.

7.30 pm

On Amendment 63A, tabled by the noble Baroness, Lady Falkner of Margravine, we agree that the Bill should not create a specific offence if there is a breach of the code of ethical conduct. However, it is clearly right that authorities that do not comply with their duty to adopt a code of ethical conduct be appropriately held to account. The noble Lords, Lord Anderson and Lord Carlile, set out much more eloquently than I can exactly why that needs to be the case. For breaches of standards by officials, the public can use the authority's complaints process. The most serious wrongdoing could also constitute a criminal offence under the "misleading the public" offence or "seriously improper acts" offence. Therefore, the Bill, alongside existing laws and processes, adequately provides appropriate avenues to scrutinise compliance with Chapter 2.

I hope that this provides some clarity to noble Lords and that I have made clear the issues which I am happy to discuss further. I therefore respectfully ask the noble Lord to withdraw his amendment.

Lord Marks of Henley-on-Thames (LD): My Lords, I am very grateful that the Minister is happy to continue discussions on strengthening the Bill. I should have said when I introduced my amendment that I was very grateful for the engagement we had for some time before Second Reading on these amendments and strengthening Chapter 2 of the Bill.

While we persist in believing that the chapter needs considerable strengthening to avoid future tragedies, I take the point made by the noble Lord, Lord Wolfson, that, particularly in relation to criminal sanctions, there is an issue which would make the Hampshire-North Yorkshire inconsistency much more serious. That is a very strong argument for having a core code. However, in view of the indication the noble Lord, Lord Lemos,

[Lord Marks of Henley-on-Thames]
has given that he will consider that issue further and that we will have further discussions, it is plainly sensible that they should await the outcome of those discussions. I will therefore be seeking to withdraw my amendment.

However, on the amendment moved by the noble Baroness, Lady Falkner, to the effect that non-compliance with the code should not really be justiciable in any way, I am entirely with the noble Lords, Lord Carlile and Lord Anderson. I am bound to say that judicial review has, for the whole of my career at the Bar, been one of the outstanding contributions—

Baroness Falkner of Margravine (CB): If the noble Lord had taken my intervention, I would have asked this then. Is not misconduct in public office already an offence?

Lord Marks of Henley-on-Thames (LD): I am not sure that that has much to do with what we are considering. Justiciability is of the essence in giving strength to this Bill. To abandon it means that we might go back to platitudes that have no real effect upon public behaviour or public perception of government and official behaviour. That was my point in taking issue with the arguments of the noble Baroness. That said, I beg leave to withdraw my amendment.

Amendment 37 withdrawn.

Amendments 37A to 49 not moved.

Clause 10 agreed.

Amendments 50 to 58 not moved.

Clause 11: Guidance

Amendments 59 to 61 not moved.

Clause 11 agreed.

Amendments 62 to 63A not moved.

Schedule 2: Meaning of "public authority" and "public official" etc

Amendments 64 to 69A not moved.

Schedule 2 agreed.

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

Teaching of Citizenship

Question for Short Debate

7.38 pm

Asked by ***Lord Norton of Louth***

To ask His Majesty's Government what steps they are taking to enhance provision for the teaching of citizenship.

Lord Norton of Louth (Con): My Lords, at the weekend the noble Lord, Ricketts, warned of the threats posed by hybrid attacks on our national infrastructure. The threats are growing and becoming more dangerous. They threaten our very system of government and the values that underpin it.

We are vulnerable because of the spread of disinformation and false narratives, not least through social media. Many people, especially young people, lack the critical capacity to interrogate the veracity of what is posted and lack an understanding of how our system works and what it delivers to them and to society as a whole. The pervasive use of social media also serves to undermine community engagement, with people no longer coming together to pursue their interests and engage in social discourse. The dissemination of fake news by malign sources, whether domestic or foreign, serves to undermine trust in our political system and culture. The 2023 ONS *Trust in government* survey found that a majority of those questioned, 57%, had low or no trust in both government and Parliament.

Our system of government, how we choose to govern ourselves and the values that underpin a healthy polity—adherence to the rule of law, justice and tolerance—have built up over the centuries, producing a stable, pluralist society, but its endurance rests on the trust and vigilance of its citizens. As Stanley Baldwin memorably put it:

"We have to remember that the price of liberty is eternal vigilance, and, I may add, eternal knowledge, eternal sympathy, and eternal understanding".

My thesis is that we need to act, and to do so as a matter of urgency to enhance knowledge and understanding. That will not happen without action on our part. As the noble Lord, Lord Hodgson of Astley Abbotts, said in opening a debate in 2018 on the report of the Select Committee on Citizenship and Civic Education,

"our fellow citizens, of any age, do not learn about how our society works … by magic. It has to be taught, and taught well".

He went on to say:

"While our committee heard evidence of some inspiring work going on in schools, too often it appears that schools regard citizenship education as a 'nice to have', not a 'must have'. Surely that needs to be reversed".—[*Official Report*, 19/11/18; col. 69.]

The committee's report concluded:

"The Government has allowed citizenship education in England to degrade to a parlous state. The decline of the subject must be addressed in its totality as a matter of urgency".

The best defence against the attack on our democratic system is a vibrant civic culture. That is what constitutes the basis of this question this evening. The onus is on government to act as a matter of urgency, though we all have a role to play.

I welcome changes that the Government have announced to the provision of citizenship teaching. They are necessary but, as I shall argue, not sufficient. The Government have accepted the recommendations of the Curriculum and Assessment Review and are making citizenship teaching compulsory for primary school children. There will be a revised national curriculum for teaching in 2028. Resources are also being made available through the Oak National Academy as well as the Electoral Commission. However, much more needs to be done. There is a problem in teaching citizenship at key stages 3 and 4. Many schools lack a subject specialist. Eight out of 10 teachers who teach citizenship do not have a relevant post-A-level qualification in the subject. I fear that citizenship taught badly may be worse than no teaching at all.

Fewer than 5% of pupils opt for GCSE citizenship studies. We know from surveys the value of such education. Exposure to citizenship content is associated with stronger support for democracy, tolerance, confidence in the ability to make a difference, and intention to vote. That is exactly what is needed. To take citizenship seriously, schools need incentives. Ofsted inspections need to give citizenship the same attention as other curriculum subjects and, as recommended by the Association for Citizenship Teaching, assess pupils' knowledge alongside opportunities for participation. Schools need to demonstrate that pupils have secured the statutory citizenship learning. Incentives need to be matched by serious investment in recruiting and training citizenship teachers, not least through the provision of training bursaries, and in enabling primary schools to deliver on the responsibilities that are being vested in them. That investment must not be seen as some discrete responsibility of the Department for Education and a drain on its budget. It must be embraced by government as an essential tool in the nation's defence against the threats it faces. Enhancing citizenship education is not among the recommendations of the Rycroft review to tackle foreign interference in UK politics, but it is a logical extension of what is proposed. It should be core to the work of the Government's Defending Democracy Taskforce.

Embedding citizenship teaching in schools is necessary but, even with adequate resourcing, it is not sufficient. We need a politically aware population. Citizenship needs to be embedded in society. I welcome the aspiration of the Association of Colleges for every college to offer students a high-quality political literacy programme. We need to extend such literacy to others in society, utilising any organisation that draws people together. The Electoral Commission may play a valuable role. Its democratic education framework is aimed at young people, but merits being extended to bodies in civil society to reach adults. We need to think what other public bodies can contribute to raising political awareness.

Will the Minister confirm that what is needed and what she will pursue is a whole of government strategy to embrace and fund citizenship teaching, along the lines I have outlined, to tackle the ever-growing challenges posed to this nation by disinformation and false narratives? We know young people recognise the need to be better informed and benefit from such education. We need to ensure that they and their elders get that education, for all our sakes.

7.46 pm

Lord Blunkett (Lab): My Lords, I thank the noble Lord, Lord Norton, and I agreed with every word he said. I thank him for referring to the 2018 Select Committee on which I served. In the very short time available, I will make just three points. First, it is excellent that the officials from the Department for Education are working extremely well with the Association of Citizenship Teaching, of which I am a long-standing honorary president, to make sure that we get the materials right and that we ensure that the teaching is of the quality that we would wish.

Secondly, I welcome the work of the Electoral Commission and the materials that it is putting out over the current year and into 2028, but I ask that it co-ordinates with the work of the department and the revised citizenship curriculum, so that it makes sense not just in schools and colleges but to post-16 young people who are not in those formal settings.

Thirdly, we should bring forward the revised citizenship curriculum to 2027. It is possible, speaking as a former Education and Employment Secretary and someone who has taught in further education, to bring forward parts of that revised curriculum to September next year in time to inform, educate and equip young people to take on voting at the ages of 16 and 17. If we do not, it will be a dereliction of duty.

7.47 pm

Lord Wallace of Saltaire (LD): My Lords, it is a pleasure to follow the noble Lord, Lord Blunkett, given that the University of Sheffield and Bernard Crick in particular were leaders in talking about citizenship education. Earlier this year, ahead of the Representation of the People Bill reaching our House, I visited a number of secondary schools in London and Yorkshire to ask how they planned to adjust their curriculum to prepare students to exercise their vote from 16. I was shaken by how little time any of them currently had for education about democracy, law and citizenship, including in one of England's leading independent schools. One hour a week for all aspects of personal development—personal relationships, finance, drugs, online stress, fakes and misinformation, bullying and grooming, health, careers, British values and democracy—is a crazy race through too many important topics. The students I met admitted how little they knew about political issues but were very keen to know more.

After the first Reform Act, the Earl of Eldon argued in a debate in this House against educating the working classes as it would give them ideas above their station. A recent *Telegraph* op-ed argued similarly that political education is dangerous because left-wing teachers will indoctrinate students with subversive ideas. Yes, democracy is about encouraging citizens to think for themselves, to challenge authority and the received wisdom, and to understand the balance between rights and responsibilities that underpins our democratic society.

Public trust in our political institutions is lower than in most comparable democratic states. The weakening of our local democracy has made politics more remote;

[Lord Wallace of Saltaire]
for most citizens, it looks like a distant game played in Westminster. The replacement of newspapers and radio by social media as the primary source of information has left many young people desperately uninformed about the structures and difficult choices that shape our politics. We need cross-party support for better political education and to make more room in our crowded national curriculum for students to learn about how to be active, informed and responsible citizens.

7.50 pm

The Lord Bishop of Peterborough: My Lords, in our Church of England schools, we are proud of the role we play in preparing young people of all faiths and none to participate thoughtfully, respectfully and confidently in our diverse arena of public life. However, many of our schools serve small, rural communities, and therefore have far less flexibility when it comes to specialist staffing. In light of the Government's decision to lower the voting age, can the Minister say what steps will be taken to ensure that all schools are adequately resourced to deliver the high-quality citizenship education that young people will need to fulfil this new responsibility?

We should also afford sufficient attention to the programme of study for key stage 1. We want our youngest children to recognise the difference between right and wrong, to understand that they belong to various communities and to realise that people and other living things have a responsibility to each other. By grounding early education in these fundamental values, we can foster an environment of fellowship with one another that enables human flourishing and invests in a bright future for our communities. We should not treat early citizenship learning as an afterthought, but as a central pillar of our education that invests in a bright future for our country.

7.52 pm

Lord Patten (Con): My Lords, I strongly agree with my noble friend Lord Norton of Louth that citizenship education should extend deeply into other bodies engaged in civil society. As we know, all politics is basically local politics, and as a very long-standing local resident in the City of Westminster I am glad to see that Westminster City Council now has a deputy cabinet member designated for civic matters—indeed, for civic pride. That is a very good thing for local authorities to turn their attention to in order to shore up the key values of our British polity.

Providentially, this debate comes at a critical time for the peaceful polity of many countries in Europe and beyond, such as India, where in recent weeks we have seen a lot of uncivil youthquakes bursting out all over their societies—tragically, particularly in France. I have seen these maybe harmless student demonstrations being suddenly transmogrified into something very much more serious, with savage assaults on the very ideal of fraternity and the free benefits of education in civil society. Mercifully, we in the UK have been spared this sort of thing, and long may that last. We must spread the message as quickly as possible, starting with schools. If you look at the school record, the number of people studying GCSEs in citizenship has plummeted. The number of people qualified to teach it has plummeted. There are not enough people to take up the challenge to show leadership. It is not only within schools but is critically important there, as the noble Lord, Lord Blunkett, pointed out. What I find very hard to understand is that there is not even a bursary for initial teacher training. Can the Minister say why?

7.54 pm

Baroness Gill (Lab): My Lords, the upcoming national curriculum reforms, making citizenship compulsory in primary schools and deepening focus on democracy and media literacy in secondary schools, are an excellent step forward. However, you can teach the mechanics of a democratic system, but you cannot put in a syllabus the courage it takes to step up and use them. True citizenship requires us to step completely out of our comfort zones. When I look back at my own journey, my real integration into society did not just happen in a classroom. It happened when I forced myself into unfamiliar spaces. Joining team sports and the school orchestra taught me how to co-operate with completely different groups of people. Later, the Duke of Edinburgh's Award pushed me even further. It led me to the doorstep of an elderly lady. Every week, I did her shopping and simply sat and spoke with her. That single step out of my own world gave me a profound, real-world understanding of my local community. It taught me empathy, history and shared responsibility.

My deepest concern today is that we are losing these opportunities, as many noble Lords have mentioned. Too many young people are absorbed in social media, simply reinforcing their own narrow subcultures. Even at home, the cultural landscape has fractured. The demise of mainstream terrestrial channels means families no longer gather around a shared cultural touchstone. Instead, individuals are immersed in TikTok or streaming that caters strictly to their existing interests. We have stopped sharing, and that stops us understanding and empathising with the wider fabric of British society. So, while we must applaud the Government's decisive action to strengthen classroom citizenship, we cannot let the state do all the heavy lifting. Policy alone cannot build a community.

7.56 pm

Lord Carter of Haslemere (CB): My Lords, our 16 and 17 year-olds are to be given the vote and there are around 1.5 million of them. This is at a time when our politics have never been so febrile and unpredictable. There is therefore a burning question as to whether our young people are equipped with the knowledge they need to use their vote in an informed way, or even want to vote at all. The good news is that citizenship education is already part of the national curriculum at key stages 3 and 4. This says that pupils "should" be taught about democratic government, the key elements of the UK constitution, human rights, financial matters, a free press, et cetera. But it is one thing to write these things into the national curriculum and quite another to deliver them in practice. Many pupils are not being taught these things at all or there is insufficient attention

given to their importance, which explains why Professor Becky Francis's review of the national curriculum found a less than 5% take-up of citizenship at GCSE, as the noble Lord, Lord Norton, has pointed out.

There should be more teachers trained in citizenship issues who can teach the subject in an impartial and engaging way in every school. As the noble Lord, Lord Blunkett, graphically put it in a previous debate on citizenship education,

"we must get rid of the Catch-22, which is that if you do not teach children, they will not go forward through the GCSE. If they do not do that",

there will be less government support

"to train more teachers—and round we go".—[*Official Report*, 18/10/24; col. 332.]

Can the Minister say how many teachers have been recruited from the money raised from VAT on private schools and how many of these will be trained to teach citizenship? Ideally, there needs to be a teacher trained in citizenship in every school. Only then will it be a part of the national curriculum at key stages 1 to 4 in a meaningful way for teachers and pupils alike, with all the massive benefits this will have for society as a whole.

7.58 pm

Baroness Berridge (Con): My Lords, the lack of specialist teachers for citizenship, as my noble friend Lord Norton outlined, means that schools have had to be super-flexible in how they teach this subject. In some schools, it is a stand-alone, with a few going on to GCSE; in some, it is taught across the curriculum in history, RE and politics; in some, it is merged with PHSE; in some, it is part of the pastoral curriculum taught first thing in the morning in forms; and in some, it is taught as part of fundamental British values. Such flexibility is not necessarily a bad thing. When the charity Freedom Declared Foundation, of which I am a trustee, together with Regent's Park College in Oxford—in which I must declare an interest—sought to create secondary school resources on freedom of religion or belief in the UK with RE teachers, the teachers arrived equipped with the exam board curriculums in citizenship and neatly slotted it in.

My main question to His Majesty's Government is this: how much emphasis is there, whether at primary or at secondary, on why we are a democracy? Encouraging young people to vote and volunteer is necessary, but when algorithms are sending mainly boys to the glorification of the strong-man view of government, along with some far-right streams of thought, for how long will they be able to make the distinction between the strong man and the dictator? Are teachers being equipped with this information about the algorithms?

This month, America—the so-called leader of the free world—was classified by the academics Levitsky and Way as a competitive authoritarian state, in which:

"Elections remained real, but incumbents systematically abused state institutions to tilt the playing field against opponents".

The context in which citizenship is being taught is very different from when any noble Lord was at school. Why we are a democracy is seriously under challenge. Flexibility needs to be supplemented by specialist training to keep apace with such algorithms.

8 pm

Lord Doyle (Non-Afl): My Lords, I thank the noble Lord, Lord Norton of Louth, for securing this debate and for his excellent speech. It is a great pleasure to follow my former boss and noble friend Lord Blunkett, who has been such a great advocate on this topic. I speak as a passionate advocate myself for citizenship education and its role in building the resilient, informed and engaged citizens of the future.

So how do we get from good intentions to good implementation? First, we must acknowledge some of the problems with the habit of suggesting simply that adding something to the national curriculum solves a problem. We have a smorgasbord of RHSE, PHSE, financial and digital literacy, enterprise education, and so on. While all these demands are perfectly reasonable, the curriculum cannot simply be an ever-growing list of things that politicians and campaigners think are important.

There are, therefore, four things I believe we need to do. The first is to understand what is already being taught rather than simply trying to add more and more obligations.

The second is to bring these subjects together. What do we want our young people to know and be able to do when they leave school, and why? Let us create one coherent curriculum with clear priorities and carefully sequenced content.

Thirdly, we need to give it the right time. Head teachers are already having to make choices and cannot keep absorbing new demands, especially for non-examined subjects. We already have a model in PE: schools widely provide two hours a week without making it an examined subject. Let us establish one hour a week for this new combined curriculum, with a clear national expectation, including Ofsted inspection.

Fourthly, let us support teachers. We need excellent curriculum materials through organisations such as the Association for Citizenship Teaching and the Oak National Academy, so that teachers can deliver these lessons confidently and effectively. This way, we can have a coherent, stable and deliverable approach to preparing our young people for life.

8.02 pm

Lord Elliott of Mickle Fell (Con): My Lords, I would like to talk about the financial education aspect of citizenship education, which I know the Government are committed to improving. It is imperative that children learn the necessary financial skills for their future. To quote the money-saving expert Martin Lewis,

"our children are sent out into a world of scams, dodgy deals and debt, without the tools to cope".

The useful Library briefing for this debate tells us that parents, carers and students are dissatisfied with

"the present level of attention on this topic in the curriculum"

and that there is

"a strong appetite for more".

I draw the attention of the House to a recent report titled *Jobs and Investment*, published by the Jobs Foundation—a charity of which I am proud to be president, as declared in the register. This included the

[Lord Elliott of Mickle Fell]
recommendation for the teaching of basic investment in schools. Teaching practical skills on rates of return, basic portfolio principles and retirement planning would set children up for life—a life of financial stability.

We should also teach the power of compound interest, the importance of delayed gratification to future well-being and—dare I say it?—why capital gains have always been taxed at a lower rate than salaried income, whereas economic growth requires entrepreneurship and risk-taking to be encouraged.

When the Minister responds to this debate, I would be grateful if the House could have more detail on the Government's plans for financial education and whether the principles of investment might be included as part of them. I hope teenagers still learn in their English lessons from reading Mr Micawber's words in *David Copperfield*:

"Annual income twenty pounds, annual expenditure nineteen pounds nineteen and six, result happiness. Annual income twenty pounds, annual expenditure twenty pounds nought and six, result misery".

Micawber's principle is correct and a neat encapsulation of why financial education is a must.

8.05 pm

Baroness Paul of Shepherd's Bush (Lab): My Lords, my commitment to citizenship education was cemented during my time working for the National Citizen Service—NCS—which brought together young people from different backgrounds to help build confidence, forge lasting relationships, and develop a sense of shared purpose, primarily through volunteering in their local communities. NCS often changed young people's lives and demonstrated to me that citizenship should be an activity and not a subject. We might bear that in mind when we think about future provision.

Like the noble Lord, Lord Norton, I will focus on the potential of citizenship education to strengthen our national resilience. Members of this House are acutely aware of the challenges that our country faces and the resulting sense of uncertainty and threat. In that climate, resilience depends on whether people feel that they belong, trust one another and, significantly, trust the institutions that govern them. I worry that we have too little understanding of what many young people are exposed to online and of the malign influences seeking to undermine our values and institutions. Looking at France over the weekend, I refuse to believe that, among the chaos, there is not some co-ordinated agitation and provocation by those who wish to undermine our values.

In the UK in 2025, counterterrorism police arrested 39 children and young people under 17 under terrorism laws. That means that one in six of all those arrested last year by counterterrorism police were children. Of those arrested, 92% were boys or young men. Those figures add to my sense that we are just not paying enough attention to who is targeting our young men and what dreadful ends they are working towards. To my mind, the boys deserve a bit more of our support, our attention and—dare I say it?—our love.

Citizenship education cannot solve every problem but, done well, it can help equip young people with the skills to think critically, challenge misinformation, understand our collective values and engage constructively with people whose views differ from their own. Given the challenges that we face as a country and what lies ahead, this seems an important and worthwhile investment.

8.07 pm

Baroness Helic (Con): My Lords, I welcome this debate and congratulate my noble friend on his tireless work on citizenship education over the years and on his speech today. I serve on your Lordships' National Resilience Committee and much of our work concerns how the country can withstand threats to its institutions and security. However, national resilience cannot be secured by the state alone; it also depends on the judgment and conduct of citizens.

Last week, Sir Ken McCallum urged us to be

"clear-eyed about the more contested world we now live in".

This is absolutely right, but being clear-eyed requires more than a recognition of the external threats; it requires the ability to distinguish between credible information and manipulation, and between disagreement and enmity.

Citizenship education must therefore go beyond teaching how Parliament and elections work. Young people should understand why the rule of law matters, how to assess evidence and how to disagree without treating others as enemies. These are essential disciplines of democratic life and national resilience.

I welcome the Government's plans to extend compulsory citizenship education to primary schools in England from 2028 and to strengthen media literacy, but policy commitments alone are not enough. Provision remains uneven, and schools need the time, expertise and support to teach these subjects effectively. Will the Minister tell the House how the Department for Education and the Cabinet Office are working together to make civic resilience, including political literacy and the ability to recognise manipulation, an explicit part of national resilience planning? How will the Government assess whether these efforts are succeeding?

When a crisis comes, the question will be not only whether the Government are ready but whether citizens can exercise judgment, resist manipulation and act with a sense of responsibility towards one another. We cannot assume that they will, but we must prepare them for that.

8.09 pm

Baroness Porter of Fulwood (Con): My Lords, when, in a recent poll, UK adults were asked to identify approximate annual government spending, only 16% selected the correct answer. In another poll, when people were asked about their understanding of how laws were made, 49% said they knew not very much about, knew nothing about or had never heard of the process. These figures raise an important question: how can we expect people to participate meaningfully in our democracy if they do not understand how it works?

As citizenship education is expanded, particularly into primary schools, we should focus not simply on what children will be taught but on how they are

taught it. The ability to think critically, weigh competing arguments and understand their responsibility to the communities in which they live should run throughout the entire curriculum.

Those of us who have spent our lives in public policy know that politics is fundamentally about trade-offs, balancing competing priorities and considering unintended consequences. We should equip children with the skills to navigate these choices thoughtfully. How they apply what they know is just as important as what they know. Citizenship education must be more than a box-ticking exercise. It must be taught in such a way that it shapes how people think, how they engage with others, and how they act in their everyday lives.

Will the Minister commit to ensuring that the new curriculum, when it is introduced, will have as its core objectives developing citizens who can think critically and understand their obligations to the wider community they live in? Can the Minister explain how the Government will ensure that these objectives translate into meaningful teaching and learning in the classroom?

8.11 pm

Lord Sikka (Lab): My Lords, to be effective, education must go beyond mere description of a sociopolitical system and include critique. Young people must be shown that democracy is preferable to plutocracy and that it must be protected from the power of corporations and the super-rich who buy the political system and hire legislators. The syllabus must encourage students to design community-based projects and see for themselves the effects of inequalities which deprive millions of nutritious food, good housing, health care, education and pensions. Such projects must consider why elected Governments are content with 1% of the population owning more wealth than 70% of the population combined; why the state forces the poorest 20% to pay a higher proportion of their income in direct and indirect taxes than the richest 20%; and why our Government are content with fiscal rules which send 300,000 people a year to premature death due to lack of timely hospital appointments.

J. K. Galbraith's book, *The Culture of Contentment*, ought to be essential reading, as it explains how the rising affluence of the few has shaped the politics of selfishness and hypocrisy and the hollowing out of economies and democracies. Education that does not reconstruct common sense and foment possibilities of emancipatory change is not really education.

8.13 pm

Baroness Barker (LD): My Lords, it was a pleasure to be part of the 2018 committee that looked at citizenship under the chairmanship of Lord Hodgson of Astley Abbotts. Although it has taken nearly 10 years, it is pleasing to see that the Government are finally getting around to responding positively to some of the suggestions we made then. I should also say that I spend a lot of time talking to schoolchildren in our education centre, and I very much welcome the move to extend citizenship education to primary schools, because the level of engagement, interest and desire for further knowledge from very young children is a constant surprise and delight to me.

Going back to the committee, one of the biggest disappointments we had was Ofsted's then lack of interest in citizenship teaching: it really was not interested in seeing that schools were being assessed on the level or quality of their teaching, and teachers were having to make up curricula in their own time and with their own resources. I am really glad that we are going to move away from that and towards proper standardisation. I am also pleased that we are going to stop mixing up citizenship with PSHE and a whole gaggle of other things.

I was critical of the national citizen service from its inception, and I am glad that the Government were brave enough to close it down, because I think it was ill-targeted, expensive and, by and large, not worth the money that was being paid for it. I have a question for the Minister. At its height, it was paid £150 million a year, and that was a very big investment in a voluntary organisation. What has happened to the money? That is a sizeable slice of resources that could be given over to the development and implementation of new resources. By the way, if those resources are going to reach young people, they have to be online at some stage, because that will be the way young people get on to this agenda and find the information that they need.

8.15 pm

Baroness Cash (Con): My Lords, I thank the noble Lord, Lord Norton of Louth, for securing this debate. It was really terrible to see France burning this weekend and watch Limoges Hall fall, with at least two dead so far. It began with rioting schoolchildren.

Here in the UK, we have recent polling showing that less than half of young Britons support our democratic system. It is a natural reflex to say, "teach citizenship", but how and what we teach under this subject is of vital importance, because it has gone so badly wrong elsewhere. There is no time to discuss this tonight, but do look at what has happened in Illinois, Massachusetts and Quebec; it has been devastating.

Children should be taught our history, our constitution, and equality before the law. Of course they should be taught how to participate; but the content being written by staff in the Department for Education, taught by teachers who are untrained, as we have heard tonight, and without any supervision or oversight as yet known to us by Ofsted or elsewhere, is simply not going to be adequate.

We have heard from the noble Baroness, Lady Paul, that about one in six people arrested for counter-terrorism in the UK are children. The noble Baroness, Lady Casey, warned us 10 years ago that there were whole communities living parallel lives, and so very little has been done; so how are we going to ensure that those among us who see citizenship of this country as a very different thing, are trustworthy in their roles in schools to teach it in the same way?

There is another place where the teaching of citizenship has failed. France has required moral and civic education in every school year since 2015. The generation that sat through those lessons set fire to their country at the weekend. The Secretary of State said recently in a speech that she wished to look again at the curriculum and I hope very much that she will look again at some of this.

8.18 pm

The Minister of State, Department for Education and Department for Work and Pensions (Baroness Smith of Malvern) (Lab): My Lords, as others have, I thank the noble Lord, Lord Norton, for securing this important debate on citizenship education. The noble Lord is a leading expert on Parliament and I know that citizenship is very close to his heart. As many noble Lords have said during this short debate, citizenship matters because it is important that young people understand our democratic institutions, their rights and responsibilities and the part they can play in shaping our country—a point emphasised by the noble Lady Baroness, Lady Porter. Citizenship education gives young people the knowledge and confidence to become active, informed and responsible members of society.

Citizenship is, of course, already a national curriculum subject, having been introduced under the previous Labour Government when my noble friend Lord Blunkett was the Secretary of State and I was a lowly foot-soldier Minister in helping him to introduce that subject. The statutory content already covers democracy and government, the law and rights, financial education and participation in society, as well as critical thinking and mutual respect. However, that does not mean that we think the status quo is good enough. The Curriculum and Assessment Review from late 2025 pointed to an out-of-date curriculum, as have noble Lords this evening.

My noble friend Lord Doyle rightly argued that we need to position citizenship within an understanding of what and how we teach across the whole of the curriculum. But the review did call for explicit content on the life skills that young people need: oracy, or as I like to think of it, speaking and listening skills; financial education, as identified by the noble Lord, Lord Elliott; and digital and media literacy. Here in particular I think my noble friend Lady Paul and the noble Baroness, Lady Helic, are absolutely right to emphasise that the ability of young people to recognise disinformation and think clearly are a key element of national resilience. The review was clear that students need to be clear-sighted, questioning and sceptical, and that needs to be a particularly important development, given some of the other issues that noble Lords have raised. The Curriculum and Assessment Review also argued for climate-change education.

The review said that curriculum content should be more specific and that it should build progressively through each age group. It also said that citizenship should become statutory in primary schools. The Government agree that no child should miss out, although I cannot promise my noble friend Lord Sikka that Galbraith will be on the curriculum for primary school pupils. The Government intend to consult this year on a refreshed curriculum which will achieve those review aims. I hope that noble Lords will engage with that consultation, and I know that some are already working hard alongside the department to make sure that that curriculum is right.

The noble Lord, Lord Wallace, suggested that there was scepticism reported in the *Daily Telegraph* about the place of citizenship. Of course, it was not just in the *Telegraph:* it was also from members of the party opposite, although I note a considerably more positive approach to citizenship from the noble Baroness, Lady Cash, than we heard from some of her colleagues from the other end of the building. During their conference, they argued that teaching children how to engage with our democracy is somehow politicising the classroom. They argued that they did not want primary pupils to have the statutory content that we believe that they should have.

The noble Baroness, Lady Spielman, is not here for the debate this evening, but she has argued in particular for more focus on British identity, but what makes us British—and proud to be—is our democracy, our rights, the rule of law and our tolerance and belief in strong communities built on respect, rejecting the divisiveness of much political discourse today. The noble Lord, Lord Patten, and others, in pointing to events in France recently, identified some of the divisiveness that happens, not just there, that all of us have to respond to.

Removing children's ability to explore those things through citizenship education does not protect our children: it leaves them open to misinformation and the forces that want to divide, not unite, our country. By the way, I think the noble Lord, Lord Norton, was right to say that it was not solely the responsibility of schools and that adults and other public bodies, including the work of the Government through the Defending Democracy Taskforce, need to make sure that that approach is taken throughout people's lives as well.

As many have argued—including the right Reverend Prelate the Bishop of Peterborough, among others—while we know that many schools already teach the subject well in ways that are engaging and meaningful for their pupils, we need to think more carefully and take action on how we implement the change in curriculum. Even an improved statutory curriculum does not give schools everything they need.

The consultation will ask people to tell us what is needed to enable effective implementation. This could include expert resources or subject-specific support, not least as citizenship includes sensitive and fast-changing topics. On that, I recognise that it is important for schools to be aware of their legal duties regarding impartiality and balanced treatment of political issues in the classroom. The existing non-statutory guidance on political impartiality provides clear and comprehensive guidance to help those working with and in schools better to understand these duties, how to strengthen their processes both in teaching about political issues and beyond the curriculum, and to give teachers the confidence to cover these topics effectively and appropriately. However, we will update this guidance if we have evidence that it is not sufficiently enabling this.

Importantly, we will continue to work with the sector, including the Association for Citizenship Teaching, the Electoral Commission, wider government departments and the range of organisations deeply committed to citizenship, to consider the best possible package of support. We will welcome pilots to test and learn what works best. We will also provide adaptable free digital lesson resources through Oak National Academy and support will be available before first teaching begins.

Here, I come to the point made by my noble friend Lord Blunkett, who pushes us to introduce this more quickly. He will know that the changes to the citizenship curriculum sit within the much wider change to the national curriculum that we are intending to bring in in 2028. That will enable citizenship to fit within what we hope will be increased opportunities for this type of learning as we streamline other elements of the curriculum as well. He is right that the important resources created by the Electoral Commission and, in fact, the existing curriculum already provide important opportunities for schools to prepare young people for a lower voting age. Like my noble friends Lady Gill and Lady Paul, I believe that activity and civic engagement are important, which is why they will be an important element of our enrichment framework.

Having enough well-trained schoolteachers is fundamental to the citizenship reforms. That is why our curriculum plans represent a new citizenship requirement for primary schools. It is positive that last year we achieved 128% of the overall postgraduate training target in primary. We know that citizenship is taught by a variety of secondary school teachers, but there are more than 3,000 additional teachers in secondary and special schools now compared to the 2024 data. I appreciate that we would benefit from a greater number of specialist citizenship teachers. The department reviews bursaries annually to take account of things such as recruitment to date, forecast economic conditions and teacher need, and we will be announcing a new package this autumn.

Several noble Lords, including the noble Baroness, Lady Barker, raised Ofsted's inspection framework, which now has a focus on ensuring that schools provide a high-quality ambitious curriculum for all pupils. Ofsted evaluates citizenship largely within the personal development and well-being area, but its toolkit now explicitly recognises the importance of pupils developing detailed knowledge in citizenship. The strong standard for this area explicitly recognises the importance of pupils developing detailed knowledge in citizenship.

In closing this debate, I thank the noble Lord, Lord Norton, and other speakers for their thoughtful and well-informed contributions. This is a pivotal moment for citizenship education. We must seize the opportunity to strengthen the subject's content and status so that it inspires people's curiosity about our changing society and equips them with the skills and knowledge to contribute to democracy as critical, informed and active citizens. The importance of the subject demands that we work closely with experts to ensure that it is taught to the highest standards and that teachers have ongoing support and confidence to bring the subject to life in a meaningful and lasting way. I welcome noble Lords' insights into how we can do that well and look forward to further discussions in this House as that work continues.

8.29 pm

Sitting suspended.

Public Office (Accountability) Bill

Committee (2nd Day) (Continued)

8.37 pm

Clause 12: Offence of misleading the public

Amendment 70 not moved.

Amendment 71

Moved by ***Baroness Finn***

71: Clause 12, page 13, line 8, at end insert—

"(1A) For the purposes of subsection (1), "misleading" is defined as when a person—

(a) omits material information, or

(b) omits information which the person is required under any other enactment to give to the public as part of the practice."

Member's explanatory statement

This amendment seeks to include the definition of 'misleading' as is currently set out in Section 227 of the Digital Markets, Competition and Consumers Act 2024.

Baroness Finn (Con): My Lords, Amendment 71 is in the name of my noble and learned friend Lord Keen of Elie. As with his previous amendments on the definition of recklessness, this amendment seeks to include a definition of "misleading" in the Bill. The reason for this inclusion is to address the current lack of clarity over its definition. The definition in the amendment comes from Section 227 of the Digital Markets, Competition and Consumers Act 2024, which defines "misleading" as the omission of information. I emphasise that this definition is intended to be a starting point; although it is not necessarily an exact fit for the Bill, the purpose is to show that there is a potential solution for the current problem of lack of clarity. The definition should also include a reference to the inclusion of irrelevant information, but at this stage the purpose is to raise with the Minister the issue that we need a proper, clear definition, and we are open to discussion on the final wording.

On Amendment 80, my honourable friend Nick Timothy argued in the other place for the inclusion of the requirement for the Attorney-General to institute or consent to any prosecution of the offence of misleading the public. This is important, and it is exactly what the amendment seeks to do. To mislead the public intentionally is of course not a good thing, and we certainly do not deny the existence of cover-ups and abuses in the past, but there is a risk that this offence could be used in such a way so as to curtail political debate. In order to prevent that from becoming the case, the inclusion of the barrier of the Attorney-General's consent would ensure that these claims were not made with no basis and instead were made only when an issue was legitimate. I beg to move.

Baroness Chakrabarti (Lab): My Lords, I have tabled Amendment 73 in this group. As we heard from the noble Baroness, the new offence of misleading the public really must be set at an appropriately high hurdle

[Baroness Chakrabarti]
and should lead to prosecution only in the most egregious cases. None the less, it is crucial in pushing the culture change that is behind this whole Bill.

There are many offences which require proof of actual harm to an individual or group before they are perpetrated, but there are many which do not. Drug supply offences and, more relevantly, perverting the course of justice are examples of the latter. My suggestion is that this offence should not require the subsequent hurdle of proving harm. The inclusion of proof of harm in the Clause 12 offence is, I suggest, unnecessary for similar reasons to those offences regarding the administration of justice.

It would also lead to various egregious examples of misleading the public not falling within the current draft of the provision, or make them impossible to prove in reality. One real-life example is a chief constable who published false crime figures. This was intended to mislead the public, but it would be very difficult to establish actual harm. Recent revelations by my noble friend Lord Beamish regarding the nuclear test vets case indicate that he was misled by senior civil servants regarding a proposed compensation scheme, which, in turn, led to the public being misled. Again, this is a case in which, should it fall within Clause 12, it would be very difficult to prove harm. The Prime Minister himself gave evidence to the infected blood inquiry that, as Health Secretary, he was misled by senior civil servants as to what the then Government knew about contaminated blood products. This caused him, innocently, to make inaccurate statements to the public. These officials ought to fall four-square within the offence, but the requirement to prove harm would make that difficult or impossible.

In recent days, there have been extremely misguided analyses of Clause 12 in the media. To be clear, the new offence targets only the promulgation of false facts by public officials, anathema to their function and mission to act in the public interest. My amendment would not alter the high hurdle of intention or recklessness, however we land with the understandable discussion begun by the noble Baroness, Lady Finn. My amendment would remove an unnecessary impediment to the offence working as intended in some of the most real and relevant cases. I urge the Committee to seriously consider removing the need to prove harm from an offence of dishonesty akin to other offences that I have mentioned.

8.45 pm

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Lemos) (Lab): I thank the noble Baroness for bringing forward these amendments, which present the opportunity for me to provide some clarification on the points she has raised. Amendment 71 would create a definition of "misleading", for the purposes of the offence of misleading the public, that replicates the definition of "misleading omissions" in the Digital Markets, Competition and Consumers Act 2024, as the noble Baroness said. We have not set out what "misleading" means in order to maintain its natural meaning and allow the offence to capture the types of behaviour that would usually be regarded as misleading. Clause 12 provides that an offence is committed where the act of an authority or official is misleading, and seriously improper where what may be seriously improper is set out. I am sure that we will engage with the noble and learned Lord, Lord Keen, and the noble Lord, Lord Wolfson, and perhaps also the noble Baroness, Lady Finn, and carry on the conversation then.

Amendment 80 would require the consent of the Attorney-General before a prosecution for the offence of misleading the public may be brought. The Bill provides that a prosecution for the offence may be brought only by or with the consent of the Director of Public Prosecutions. Scrutiny of the decision to prosecute is therefore already provided for in the Bill. The consent of the Attorney for the prosecution of offences is usually required where the offence involves national security or has some international element—for example, if there could be a bearing on international obligations or international terrorism. Given the nature of the offence of misleading the public, the Government are of the view that requiring consent from the Director of Public Prosecutions is appropriate and would not meet the usual threshold to demand the consent of the Attorney.

Turning to Amendment 73, Clause 1 of the Bill clearly sets out that public authorities and officials are expected to act with candour, transparency and frankness at all times, but criminal sanctions should be reserved for the most serious cases. The condition that an act has to have caused harm, or had the potential to cause harm, will achieve this effect, but it will not be a bar to prosecution in those cases. Let me try to explain why. First, the definition of harm is broad: it includes physical harm, psychological harm—including distress—and economic loss. This is a non-exhaustive list and can include other types of harm. The condition also includes harm or the potential for harm. This offence does not require there to be proof that it has caused harm against an individual. In cases such as Hillsborough and Horizon, evidence of harm caused by cover-ups is clear and apparent.

We have designed this offence with historic incidents of state failures in mind, where, at a minimum, potential distress could be identified, and in many cases much more serious harm. The requirement for an act to have the potential to cause harm is a key condition to make sure the offence applies to serious cases only. The harm threshold ensures that the public, the police and prosecutors are able to distinguish between those actions that meet the threshold for criminal sanctions and those that should be dealt with through other routes, such as an organisation's complaints process, or that are covered by other aspects of the law.

Baroness Chakrabarti (Lab): I am grateful to the Minister for giving way. In the example of a chief constable who deliberately doctors the crime statistics to boost his or her own success, how easy does the Minister think it will be to prove actual, or even potential, harm?

Lord Lemos (Lab): Frankly, I do not think that is the issue at all, but it would be wrong for me to comment on individual examples of that sort. I have set out what I think the issue in principle is.

Lord Anderson of Ipswich (CB): Let me try again without an individual example. When the public is misled, the harm is to public trust in those who govern us. Is the Minister saying that that harm is physical harm, psychological harm or economic loss? If it is none of those things, under the Bill as it stands, there could be no prosecution.

Lord Lemos (Lab): That is a non-exhaustive list, but I am happy to take that point away. I am not suggesting that those are the only tests of harm.

Lord Alton of Liverpool (CB): My Lords, I would like to pursue the point being made by the noble Baroness, Lady Chakrabarti, who is citing the point made by the noble Lord, Lord Beamish, about atomic test victims. The Minister said in reply to my remarks earlier today that he would write to me specifically about the inquiries into the harm that might have been done to the atomic test victims by the misleading of Parliament when Tobias Ellwood told Parliament something he had been told by his officials which was subsequently shown to be wrong. Where does the blame lie there? It is not about prosecution; it is about what you do then to remedy or rectify that harm or damage done to the individuals involved. Tobias Ellwood was interviewed on 2 September by Victoria Derbyshire on the BBC, so this is in the public domain; this is not something I am making up as I go along.

Lord Lemos (Lab): We have to take each case on its merits. The Government's view is that it is important to have this harm threshold, as I am about to go on to say. Let me carry on a bit. It is the nature of public life that it is not uncommon for public officials or office holders to be accused of being untruthful when going about their daily tasks. The risk undermining the offence itself is if it is used to trigger police investigations into vexatious claims or to engage in political "lawfare", rather than for the grave examples of state cover-up for which it was intended. That is the key point we are trying to drive at here: if there are serious and harmful consequences, there is a case for prosecution. But if, for other reasons, people are being told that they have not been telling the truth, that is not quite the same as what we would want the police and the prosecutors to be focusing on.

The creation of an offence of this kind is a bold step. I am sure noble Lords will agree with that. Hillsborough families spoke of the importance of individual accountability, and we listened. I reassure noble Lords that it is clear from our engagement across the public sector that such a strong new measure, as drafted and when properly implemented—we will have a discussion, as we have said, about implementation—will have a serious and real deterrent effect, and we are confident that it and every other measure in the Bill will drive a culture of candour and truthfulness. I therefore request that the noble and learned Lord withdraw his amendment. Apologies, I mean the noble Baroness.

Baroness Finn (Con): I thank the Minister, and I am very pleased with my upgrade to learned, so thank you. I thank the Minister for his willingness to engage on the potential need for a definition of "misleading" in the Bill. More disappointing was his response on including Attorney-General consent to the prosecution of the offence of misleading the public, but perhaps we can explore that further. On that basis, I am happy to withdraw the amendment.

Amendment 71 withdrawn.

Amendment 72

Moved by ***Baroness Brinton***

72: Clause 12, page 13, line 8, at end insert—

"(1A) An act under subsection (1)(a) includes the provision of misleading information to a person acting for the purposes of journalism (as described in subsection (4)(b)) carried out via a press statement, media briefing, or other communication intended for dissemination by a recognised news publisher."

Member's explanatory statement

This amendment would ensure that the offence of misleading the public would include a public authority or public official providing misleading information to a recognised news publisher.

Baroness Brinton (LD): My Lords, the amendments in the previous group proposed some changes to what an offence for misleading the public is. This group moves to the who and the how in an official misleading the public. I have laid Amendments 72 and 77 in this group.

In 1989, in his interim report on the Hillsborough disaster, Lord Justice Taylor made it unequivocally clear that although many fans had been drinking, most of them were

"not drunk, nor even the worse for drink".

He concluded that this formed an exacerbating factor but that police seeking to rationalise their loss of control overestimated the element of drunkenness in the crowd. However, the statements by the police to the press at the time said that they believed it was the behaviour of the fans, especially those who were drunk and violent, that was the cause of the tragedy—and many in the press believed them, with Liverpool fans carrying the blame even when Lord Taylor had contradicted this view.

It took a quarter of a century for the report of the Hillsborough Independent Panel to be published, and it noted in September 2012 that Lord Justice Taylor was clear that Chief Superintendent Duckenfield was "untruthful" to Mr Kelly, the chief executive of the FA, about the inrush of fans forcing open the gate. The police led the press to believe that much worse had happened. Lord Taylor called it a "vilification" of the fans: he had not found one single witness to support any of these allegations. These lies were believed by many in the press, some of whom began decades of negative stories about the Liverpool fans that day. The fans, their families and the city of Liverpool have spent years trying to expose the truth; they are extraordinary. The Hillsborough Independent Panel is a testament to their fortitude.

Sadly, however, they are not alone. Officials in the Post Office lied to the press about some of the Horizon postmasters and about the problems with the Horizon

[Baroness Brinton]
system. In infected blood, doctors and Department of Health officials lied for decades—including to the press—about the true risks of using blood from America and how serious the consequences would be for people. That is why I have laid Amendment 72.

In the United Kingdom, the press and publishers are still thought mostly to be reliable sources of information for their readers. Victims of all three of these tragedies could not even begin to recover while these lies persisted. The consequences of these lies for postmasters were court cases and being exposed as criminals; in the case of those who caught HIV and developed AIDS from infected blood, many were treated as pariahs in the difficult AIDS era. The Bill creates other offences but, for some reason, ignores the role of giving misleading information to journalists or news publishers, and this amendment attempts to rectify this.

Clause 12 is important. As we have discussed in the Bill, the duty of candour needs both carrot and stick. Clause 12 sets out the key ground rules relating to misleading the public and a public official or public authority intentionally misleading the public or being reckless as to whether their act will do so or not. This is critical to ensure that the duty of candour works. The stick is the offence for which there are definitely legal consequences, but there is a carrot in this too: all public authorities and any other bodies training their officials would have to ensure that they all understand the guardrails about misleading the public and that improper behaviour will have consequences—especially when talking to the media and journalists.

To those who say that Clause 12 goes too far, I say that the family members of Hillsborough victims had to watch as their loved ones were not only killed that day but had their reputations unjustly trashed because police officers intentionally misled the press. Clause 12 would rectify that and stop it happening in the future, and there would be consequences if a public official or organisation deliberately misled the press. I beg to move.

Baroness Falkner of Margravine (CB): My Lords, I will intervene very briefly on this amendment. Before I do, however, I will describe my motivation for this intervention. Let me be clear that my deepest sympathy goes out to all of those affected by the appalling examples of dishonesty and cover-ups that have led to the need for the Bill, and which have just been referenced to by the noble Baroness, Lady Brinton.

In seeking to probe the Government, I am merely doing my job as a Member of this place in trying to improve legislation and to make it more workable in a practical sense. No one doing their job should face innuendo that they are acting in bad faith, as some campaigners may be prone to suggest.

9 pm

On Amendment 72, of course I accept all the examples given by the noble Baroness, Lady Brinton. I have my own catalogue of experiences of appearing in the press, where misleading actions or, indeed, pure lies were attributed to me. I have spoken to more defamation lawyers than I ever thought I would need to speak to in my life, but I took no action against those libels, as I saw them. The reason for that is that I believe in an independent press, which, in our country—and we have fairly high standards—is usually an ethical and well-regulated press. I am very glad that I have spoken before the noble Lord, Lord Faulks.

It is profoundly important, in drafting legislation, that we are aware of Article 10 rights for public officials as much as for any other body. Public officials do not give up their Article 10 rights when they put on their lanyards and come into work. The press has been credulous in accepting things that are perhaps improbable, with things that happened far more frequently in the past than they happened today, because proprietors, the law and journalists themselves are rather more ethical than they were 45 years ago.

On that basis, I would be reluctant to see an amendment of this sort to this Bill, whereby people would face criminal sanctions for speaking to journalists about things that they may, in good or bad faith, consider to have happened. We have to respect that in terms of press freedoms.

Lord Faulks (Non-Afl): My Lords, I do not for a moment dispute the right of the Government to bring forward legislation imposing a duty of candour. It was in the manifesto, and in any event, there is generally agreement across parties that public authorities and officials should be candid. The need for this has been graphically illustrated by Hillsborough, the Post Office and many other scandals.

The requirement for the creation of a criminal offence, such as we see in Clause 12, was not in the manifesto. Even if it had been, it does not relieve your Lordships' House of the task of scrutinising the legislation, particularly a clause which has such a wide potential scope. Clause 12, described just a moment ago by the Minister as a "bold step", will create an offence of misleading the public by public officials. It is a free-standing criminal offence. On conviction, a defendant could face up to two years' imprisonment.

A public authority includes a Minister of the Crown, a government department, the devolved Administrations, the Armed Forces, police forces, local authorities, NHS bodies, schools and any other body with functions of a public nature. A public official, which appears, in this context, to include those who work for a school, is anyone who works for or holds office under such a body.

My first question to the Minister is: can he clarify quite how many public officials would be caught by this definition so as to render them potentially liable to conviction of a serious offence? We heard from the noble Baroness, Lady Falkner, that there are some 6 million civil servants, but there are many others who would classify themselves as public officials, and we have a significantly large public sector in this country.

My second question is: what sort of behaviour is intended to be caught by this clause that would not be captured by the provisions of the Bill—Clauses 13, 14, 17 and 18—or by the general criminal law? Examples would help. I looked at the Explanatory Notes. One of the examples given was a department covering up

"the harmful consequences of a policy".

With respect, that seems to describe what government is regularly accused of doing in the rough and tumble of politics, yet it could apparently be a criminal offence.

The clause is extremely vague, which gives rise to rule-of-law objections. As we have already heard, "misleading" is a tricky word. When is a political statement that tends to emphasise positive rather than negative facts—or vice versa, depending on the source—to be regarded as "misleading"? "Seriously improper" is defined, but it includes not only an act of concealment but "obfuscation". What is or is not "obfuscation" is very difficult to say. There is a defence—which I think the noble Baroness, Lady Levitt, will address to the Committee—that is supposed to provide some form of defence. At the moment, I am not convinced of how satisfactory it is.

If the Conservative Front Bench had its way, a prosecution would proceed only with the consent of the Director of Public Prosecutions or the Attorney-General. Is this a sufficient safeguard? I am not seeking to impugn the integrity of any DPP, but will he or she not have to take some very difficult, almost political decisions? We know that prosecuting authorities can be judicially reviewed, and that mischievous people can attempt prosecutions for political reasons. My provisional view is that this offence, although motivated by the best motives, is a big leap forward—one that potentially renders people vulnerable to prosecution who should be not the intended victims. While many people who might be prosecuted might be acquitted, they would still have to go through the process of being subjected to the criminal justice system. That is the first point.

The second point—which is perhaps more important—is the question of what effect this particular provision will have on public administration. I recommend the Policy Exchange document on the Bill that was published last week, and in particular the foreword by the noble Lord, Lord Butler, who knows a great deal about public administration. The authors of the paper drew comparisons between the now much-regretted Freedom of Information Act and this piece of legislation. I looked to see what the periodical *Local Government Lawyer*—probably not a publication terribly familiar to your Lordships—might say about Clause 12. Generally, the publication is not politically contentious; it is there to guide local governments as to potential legal vulnerabilities. It said this of the Bill:

> "The breadth of the offence will likely require existing codes of conduct, employee policies, protocols and training materials to be revised. Anti-corruption measures will be familiar in many public bodies, but may not … capture the full range of behaviours that will be criminalised by Clause 12".

That sounds like an absolute avalanche of legal intrusion into the way that public authorities will have to operate in the future.

If the Freedom of Information Act 2000 was supposed to change the culture of secrecy, it has, in many people's view, made people reluctant to commit frank views to paper at all. Many feel that it has had the opposite effect to that which was intended and has not made for better government. Clause 12 similarly runs the risk of making officials much more reluctant to put provisional or controversial views on paper. Decisions may be taken only in small groups. Notes may well be taken very much with the prospect of being scrutinised. We heard earlier in debates about the problem of people potentially deleting notes or deleting digital footprints. There may not be anything to delete if this becomes law. Lawyers will be involved and lawyers do not always help make good decisions, whatever their intentions. It may well be that the people involved in making decisions feel that they had better not write anything at all.

To reassure the Whips on the Front Bench, I am not intending to divide the House over this issue, but I am seeking to probe the Government on how this is going to work. I had some sympathy with the amendment spoken to by the noble Baroness, Lady Chakrabarti, on the requirement for harm. This is a step into the unknown which I am not convinced will be satisfactory. In fact, I fear the worst.

Lord Young of Acton (Con): My Lords, Amendment 76 is in my name and that of the noble Baroness, Lady Fox of Buckley. I declare my interest as the general secretary of the Free Speech Union.

Before I come to my amendment, with reference to Amendment 72, my concern is that it would make it much harder for journalists and public officials to communicate with each other in confidence. From my own experience as a journalist, I know that quite often public officials, politicians and Ministers will add a bit of topspin to the information they are providing you with. You learn to take that into account and counterbalance it by talking to their political opponents or to people who disagree with them. In the end, you come to a mature, informed decision. My worry is that, if it becomes a criminal offence for a public official to mislead a journalist, that will make it much harder to get public officials to talk to journalists.

There is one quirk in the amendment. The criminal offence would apply only to public officials who mislead journalists working for recognised news publishers. That would create a perverse incentive for public officials to communicate in confidence only with unrecognised news publishers, knowing that they would not be liable for prosecution if whatever they told them was then published. Unrecognised news publishers would presumably do less checking and be less scrupulous about simply regurgitating whatever misleading things they have been told by public officials. Therefore, for a variety of reasons, Amendment 72 would be unwise.

I share the reservations of the noble Lord, Lord Faulks, and the noble Baroness, Lady Falkner, on Clause 12. My particular concern is that it will have a chilling effect, preventing public officials contributing to debates for fear of prosecution. The Explanatory Notes to the Bill say that the offence is not intended to stifle public debate or prevent people expressing opinions. My amendment simply asks the Government to put that assurance in the Bill. Why does that matter? It is because Explanatory Notes are not law and public bodies are adept at ignoring them.

Take the Equality Act 2010. The Explanatory Notes say, regarding Section 26 on harassment, that

> "courts and tribunals will continue to be required to balance competing rights".

[Lord Young of Acton]

It names "freedom of expression" and "academic freedom" as two of those competing rights. Yet, in the Free Speech Union's experience stretching to over 7,000 cases, that balancing exercise is often missing from the harassment policies of employers, universities and public bodies. This free speech protection was written into the notes of the Equality Act but not the Act itself and has often been overlooked as a consequence.

9.15 pm

Nor is the line between a false statement and an opinion always easy to draw. That is not just my view; it is the view of a review commissioned by the Government Office for Science and published in May. Its authors are not sceptics about the dangers of misinformation—far from it—yet they acknowledge that

"false and misleading information is sometimes hard to differentiate clearly from legitimate opinion".

In other words, one person's false and misleading information is another person's legitimate opinion.

Let me give an example. Recently, the Prime Minister told "The Rest is Politics" podcast that he had asked his officials if there had been Russian interference in the 2016 EU referendum and had received

"the clear answer that, yes, there was".

Some will regard that as misleading. In the other place, the leader of the Opposition said,

"you cannot fight misinformation with misinformation".—[*Official Report*, Commons, 14/10/26; col. 359.]

Others, including many in this House, will no doubt regard it as a legitimate opinion. If my amendment is not accepted, the police will have to decide whether a complained of statement was one or the other. Surely we do not want the police, or indeed the Crown Prosecution Service, spending hours parsing the contributions of Ministers to political debates to determine whether they are misinformation or legitimate expressions of opinion.

The Prime Minister's remarks on "The Rest is Politics" are an example of

"unprepared comments made by Ministers during political interviews",

which, according to the Explanatory Notes,

"should be viewed differently to a formal statement made by the Minister and released through a government department".

To protect Ministers, including Prime Ministers, from being investigated by the police following the receipt of politically motivated complaints, those words should be included in the Bill.

That brings me to vexatious complaints more generally. There are two routes by which Clause 12 could be turned against an honest official. The Bill's safeguard addresses only one of them, and does that inadequately. The first is private prosecution. In 2019, a private prosecutor persuaded a district judge to issue a summons against Boris Johnson for misconduct in public office over claims he made during the referendum campaign, before the High Court eventually quashed it. To their credit, the Government have made some efforts to close that door. Schedule 3 provides that proceedings under Clause 12 may be brought

"only by or with the consent of the Director of Public Prosecutions".

But is that a strong enough safeguard? The current DPP's term is due to expire in October 2028, which means a Labour-appointed DPP could be in office when there is a change of Government. Who is to say that that DPP would not consent to a private prosecution brought against a Conservative or Reform Minister in 2029? As my friend the noble Lord, Lord Faulks, said, the decision would, in many cases, be a political decision, not a straightforwardly legal decision. It is for that reason that I support Amendment 80, which would at least require the consent of the Attorney-General before a prosecution could proceed.

The second route is a complaint to the police, and here a consent requirement offers no protection at all. It applies only when proceedings are instituted. Everything before that, from the complaint and the investigation to the interview under caution, happens without any prosecutor being involved. Section 25 of the Prosecution of Offences Act 1985 even provides that a consent requirement does not prevent a suspect being arrested. We know at the Free Speech Union, from the history of non-crime hate incidents, how readily the police will record and pursue complaints, and in some cases arrest the people complained of, that should never have troubled them. For the person on the receiving end, the investigation is the punishment, whatever a prosecutor eventually decides. Neither DPP consent nor Attorney-General consent can prevent that.

Amendment 76 would go some way to addressing this problem. It would provide that:

"An act is not seriously improper … if it consists of … the expression of an opinion, or … a contribution made in good faith to debate on a matter of public interest".

That protection falls away where the person knowingly asserts a statement of fact they know to be false, so the liar gets no shelter. What is protected is honest opinion and good faith argument. By including those protections in the Bill, my amendment would give the police a clear basis to turn a vexatious, politically motivated complaint away at the outset.

The case is stronger still in the light of Amendments 78 and 79, tabled by the noble Baroness, Lady Levitt. They would replace the reasonable excuse defence with a narrower public interest defence and place the burden of proving it on the defendant. If the offence is going to be made easier to make out—and I do not think it should, obviously—the line between opinion and falsehood must be drawn clearly at the outset.

If the Minister says the clause would never be used in this way then there is no cost in accepting the amendment. If there is a risk of expressions of opinion being mischaracterised as misinformation, and the Government Office for Science's paper on misinformation suggests there is, then this Committee should shut it down now, thereby nipping thousands of vexatious complaints in the bud.

A law against misleading the public should not itself mislead the public about where the boundaries of lawful speech lie by including free speech safeguards in the Explanatory Notes but not in the Bill itself.

Lord Anderson of Ipswich (CB): My Lords, the noble Lords, Lord Faulks and Lord Young, make a serious point, and one that I do not think can simply

be brushed away. It seems to me that the strongest answer to it is, or ought to be, the condition in subsection (3)(a) that, to be a criminal offence, in addition to the other criteria being satisfied, the act has to involve

"dishonesty that was significant or repeated".

Traditionally, of course, in our courts, dishonesty is left for the jury to decide in the light of their experience of everyday life, but this Bill seeks to define a little what is meant by dishonesty, saying

"whether by means of falsehood, concealment, obfuscation or otherwise".

I would like to suggest to the Minister a small change to this Bill that might go some way towards immunising it or protecting it from the sort of criticisms noble Lords have just heard so eloquently expressed. We know from the way those words are drafted that dishonesty must go broader than merely a falsehood, and broader also than a concealment, because otherwise you would not need any other word. That is the first point. The second point is the word that is chosen: "obfuscation". I am afraid my iPhone subscription takes me no further than the *Cambridge Dictionary*, but that tells me that to obfuscate means

"to make something less clear and harder to understand, especially intentionally".

Anyone reading that obfuscation is a form of dishonesty might be minded to take a very broad view of what dishonesty means—a view that obviously goes beyond merely the lie direct or the concealment of the truth. Seeing that word obfuscation there makes me a little worried that noble Lords have a point when they speak of the chilling effect and the unpredictable extent of this offence.

Although I am afraid I have not got an amendment down to remove the word obfuscation, I suggest that if there are to be discussions on this before Report, it might be something we should all bear in mind.

Baroness Fox of Buckley (Non-Afl): My Lords, there have been some important points made and I am sympathetic to the arguments put forward by the noble Lord, Lord Faulks.

I keep thinking that there will be unintended consequences of this. It is difficult because—and I do not say this in a sarcastic way—this is a very worthy, noble Bill. I do not want to betray its intentions, but I fear that if we do not challenge it and scrutinise it properly, it will itself betray what it is trying to do by creating a whole new set of problems.

In our previous day in Committee, the noble Lord, Lord Carlile, raised some important points about the dangers of overcriminalisation and the damaging outcomes it could have. Clause 12 fits very much into that spectrum.

I also have a lot of sympathy with the criticisms made by the noble Lord, Lord Young, of Amendment 72 on the provision of misleading information to the press and how that could be used or interpreted. Inasmuch as the press is a valuable way to hold power to account, it is very important that we do not inadvertently do anything that stops the press getting hold of some more difficult stories. People might not intend to mislead—we can think of malevolent reasons for the press being told lies about people—but things might be said to the press in good faith, when we want to encourage more whistleblowing to the media, not less, if we are to shine a light on wrongdoing in society.

I have some hesitancy here, but I put my name to Amendment 74, which seeks to include as an offence a civil servant misleading a Minister. In a way, I was trying to respond to the notion of a two-tier issue. Documented cases exist in which civil servants and senior officials have provided incomplete, inaccurate and misleading information to Ministers or have kept key facts from them. We are aware of this and, as the Civil Service Code requires honest and impartial advice and supposedly prohibits deliberately withholding relevant information from Ministers, it might seem extreme if we now say that this should be made the law and a legal offence created. But, in a way, that is what the whole Bill does.

I am a bit torn on this. The inquiry into the Post Office/Horizon IT scandal was told that officials had misled Ministers or had failed to provide accurate, impartial advice. There have been accusations that Ministers were misled on everything from the scale of the backlogs of asylum and immigration cases to the chaotic withdrawal from Afghanistan. That has been documented in the Foreign Affairs Committee and elsewhere. To quote that committee, civil servants were

"at best intentionally evasive, and often deliberately misleading".

That is an atrocious situation.

I do not want to let Ministers off the hook and get into a cheap "blame the blob" situation, but I have experienced situations such as a Minister reading out advice, in relation to issues of sex and gender—as it happens—when I challenged their interpretation of the Equality Act 2010. The Minister read out information that was inaccurate and misleading, and I felt this was driven by a more ideological intervention, because I challenged the Minister and they were just reading out what they had been given. The Supreme Court might have clarified this, but the law was the law before it clarified what it was. Ministers had been given bad advice and yet it was difficult to challenge that. That made me consider taking this amendment seriously.

I am going to completely contradict myself now because, having put my name on that amendment, I have changed my mind. This is a bit unhelpful, but it might help if I explain why I have ended up somewhere else. It suddenly dawned on me that those officials could well claim that they were simply using good faith judgment to advise the Minister; they were not trying actively to mislead, even though I have some sympathy with the notion that a lot of the Civil Service is overly ideological and too partial on some highly contentious issues.

9.30 pm

What if they give the advice on a contested area in good faith? Will they be in scope of committing an offence? That is what leads me to concerns that the Bill could inadvertently lead not to candour of speech at all but to the chilling of speech, which is why I absolutely support Amendment 76 in the name of the noble Lord, Lord Young of Acton.

[Baroness Fox of Buckley]

The noble Lord, Lord Wolfson of Tredegar, noted in an earlier group the dangers of criminalising breaches of a code of conduct. Every time I hear about different aspects of the Bill, it suddenly dawns on me that, at this rate, no one will say anything ever for fear of criminal consequences and liability. The noble Lord said that where codes go, the lawyers will certainly follow—and all I can see in the Bill are more and more lawyers all over the place. I think we heard that from the noble Lord, Lord Faulks, and I thought freedom of information was a perfect example of that. I remember meeting some friends who basically said that they do not write anything down now. I thought that that was hardly a satisfactory situation, and I feel that that could happen now. I am worried that the provisions in Clause 12 will be weaponised and that the criminalisation of misleading the public will become used to litigiously point the finger at other people and seriously risks having a chilling impact on political disagreement or debate.

I will give one example and then finish. If you can imagine that we did not know anything, in the early discussions, having spoken to people who were involved about the worries that they had about gangs of people raping and sexually abusing children and young women in northern towns, the former MP Ann Cryer, who is one of my heroines from that time, raised the issue in 2003 or 2004—for which she was called a racist. I met some people after that who thought that there were criminal gangs operating in the school where they taught, and some other people who were social workers who feared that there was an organised gang going on. They were public officials. They did not necessarily all speak out then, for fear of being accused of Islamophobia or racism, following on from what had happened to Ann Cryer, for goodness' sake—she was named a racist when she was anything but. Now they could be in the situation where they would not speak out because they could be criminally liable if they were wrong. They were speculating. They would not be trying to mislead; they would be trying to say, "Do you think there could be?"

We want our public officials to speak freely, to be able to say, "What if this is the case? What do you think? Could it be that?" I am concerned that, this way, they could fear that they would be criminalised for some of the things they would say. I do not want officials to water down the advice that they give public officials on contested areas for fear of criminalisation, and I do not want public officials to start biting their tongue and being frightened to say anything in case they get accused of misleading the public when they are trying to raise matters on behalf of the public in good faith. If there is nothing to concern us and the Government say, "Don't worry about it", that is absolutely fine: put it in the Bill, and that will be reassurance enough for me.

Baroness Falkner of Margravine (CB): My Lords, because so many speakers in the debate on this amendment have mentioned the Freedom of Information Act, I wanted to make one or two observations to do with that Act.

The most important one, I think, is that, despite all the evidence provided in the Policy Exchange report *Legislating for Candour?*, from Prime Ministers and all sorts of other people, at least for the Freedom of Information Act, the deep concern we have heard across the Committee is that this will turn into another example of the kind of Act which has in fact reduced candour rather than improving accountability, and makes public servants so cautious of what they might say that little is said orally that could be repeated in written notes.

At least in the FoIA, there is a Section 36 exemption, which applies to material relating to the conduciveness of good policy-making. That is used frequently by all sorts of public bodies. In this case, however, in this Bill and in Clause 12, that Section 36 exemption would not apply, which is one of the reasons that I think the entire Clause 12 really needs to be taken out of this Bill.

I agree with much of what the noble Lord, Lord Young, said in his argument today. I was particularly mindful of the podcast given recently by the Prime Minister about Russian interference, and I am very glad he raised it. I was going to raise it myself when I came to discuss the concerns in this Bill. When you have the use of language such as tests of "knowing" or "ought to have known", "seriously improper" defined only by reference to sub-clauses where you depart significantly from what is to be expected in the proper exercise of the person's functions as a public authority or public official, and, of course, the issues to do with harm and obfuscation raised by the noble Lord, Lord Anderson, I expect there will be quite a lot to contemplate in terms of the deleteriousness of this clause and the impact it might have on public discourse and freedom of expression. I hope the Minister will be open to having deep and substantive conversations with regard to this.

Baroness Levitt (Lab): My Lords, I rise to speak to Amendments 78 and 79 in my name. These amendments concern the defence to the new offence of misleading the public created by Clause 12, and they should be considered together with Amendments 85, 86, 88 and 89, which fall within the next group, because they raise the same issues in relation to the offences created by Clauses 13 and 14.

These amendments matter because they determine whether these new offences provide an effective means of enforcing accountability, or whether in practice they may prove so difficult to enforce that they prove to be nothing more than a paper tiger. My amendments propose two changes in relation to all three of the new offences. First, they replace the defence of "reasonable excuse" with a defence that the defendant was acting in the public interest. Secondly, they place the burden on the defendant to establish the defence. The starting point is that all three of these new offences are serious ones. Two of the three replace the old common-law offence of misconduct in public office, and all three are directed at conduct that undermines confidence in public administration and erodes trust in those who hold public office.

If Parliament is creating offences of this kind, the defence should be clear, objective and appropriately limited. The first question, then, is: why is "public

interest" a better option than "reasonable excuse"? The concern is that the defence of reasonable excuse risks being both too broad in scope and too uncertain in its application. When the Law Commission recommended the abolition of the common-law offence of misconduct in public office, it recommended a public interest defence, not a reasonable excuse defence. The distinction is important. A public interest defence asks not merely whether the officeholder can explain their actions, but whether those actions were genuinely justified in the interest of the public whom they serve. A person may well believe that their conduct was administratively convenient, politically expedient or justified because it protected their institution, whether that institution be the Civil Service, the police or the security services. But none of those things necessarily means that what they did was in the public interest.

I suggest that it is self-evident that most public officials who commit these kinds of crimes do not set out deliberately to commit an offence. They may believe that they are being pragmatic, that they are protecting their organisation, or that they are responding to straitened finances or other difficult circumstances. In their own minds, they may think that what they have done is entirely reasonable—but that does not help the victims, and that is not the same thing as acting in the public interest.

Imagine a prison governor who decides to reduce the number of suicide watches to save money. The governor may argue that financial pressures provided a reasonable excuse for that decision, and in order to decide whether that is right, a jury would have to consider arguments about competing priorities, budgets, judgments and so on. A public interest defence asks a much clearer question: was it truly in the public interest to expose vulnerable prisoners to greater risk to save money? Which question do your Lordships believe victims and survivors whose experiences provide the impetus for this Bill would think is more important?

A public interest defence is not unusual. There are many other examples to be found in the criminal law. For example, Section 4 of the Obscene Publications Act contains a defence that publication of the article in question was justified as being for the public good. In the context of all three offences created by this Bill, a public interest defence would continue to safeguard those who require protection, particularly whistleblowers acting to expose wrongdoing. What it would not do is permit broad and subjective explanations to be advanced for conduct that has fallen below the standard that society requires of a public officer.

That brings me to the second issue: who should bear the burden of proof? This was explicitly considered by the Law Commission, which considered that doing this—putting the burden on the prosecution—could create significant practical difficulties in proving these offences. In many cases, the facts underlying the defence will be known mainly, or possibly exclusively, by the defendant. They may wish to say that they acted on particular information, received particular advice, held a particular belief or were motivated by a particular public interest concern, yet it would be for the prosecution to disprove those assertions. The Law Commission specifically cautioned against this. It considered that requiring the prosecution to disprove such matters could impose unrealistic evidential burdens and, in some cases, require prosecutors to prove the non-existence of facts.

These amendments address that problem in a straightforward and proportionate way. If a defendant wishes to rely upon the defence that they acted in the public interest, the burden of establishing it would fall on them, but only to the civil standard. This is not unusual, nor is it unfair. It is not unfair because the prosecution would still have to prove every element of the offence beyond reasonable doubt, and the presumption of innocence remains intact. The Law Commission concluded that such an approach would be compatible with Article 6 of the European convention. It is not unusual because Parliament frequently adopts this approach where the relevant facts are particularly within the defendant's knowledge. For example, a person charged with possessing a bladed article in a public place must prove that they had good reason or lawful authority for having it. The burden is on them because only they will know why they had the knife with them. There are many other examples, including the defences created by the Bribery Act, which put the burden of proof on the defendant.

The comparison with the Bribery Act exposes another oddity about these defences. Clause 12(6)(a), which mirrors Section 13 of the Bribery Act, places the burden of proof on the defendant, yet Clause 12(6)(b) places the burden on the prosecution. No explanation has been given for why two statutory defences appearing side by side in the same clause have different burdens of proof. The Government ought to explain to victims and the wider public why they have chosen a route that the Law Commission explicitly rejected as making these offences too difficult to enforce. The Explanatory Notes say that its provisions are in line with the Law Commission's recommendations; that is simply not correct in relation to these defences. This matters because we need to be sure that these defences are capable of practical enforcement. Victims and survivors deserve no less.

Lord Alton of Liverpool (CB): My Lords, this Committee stage of the Bill is a good illustration in the context of the speech we have just heard from the noble Baroness, Lady Levitt, of why we need to go into the granular detail and why we need to look at what the implications may be. This also touches on what the noble Lord, Lord Young of Acton, and the noble Baroness, Lady Fox, were talking about: how a Bill such as this could potentially have a chilling effect and why we have to ensure that it does not.

I was struck at the contrast between, for instance, the speech by the noble Baroness, Lady Brinton, who reminded us of how the media became involved in telling falsehoods about what happened at Hillsborough, and the role that the media can often play in being in the vanguard of exposing truth. It does not always fall one way or the other.

9.45 pm

I was thinking, as I was sitting here, that I used to share this Bench sometimes with Lord Armstrong, who as Robert Armstrong went to the *Spycatcher* trial

[Lord Alton of Liverpool]
in Australia and used that very telling phrase about being "economical with the truth"—a far cry from Ben Jonson, who said:

"Stand for truth, and 'tis enough".

This Bill, I think, is seeking to do that. It is about finding the truth, getting to the heart of the matter and doing what we can to put aside untruthful remarks, whether they are made by the media, officials or even politicians or human rights organisations—whoever it may be. The noble Baroness, Lady Falkner, was complaining earlier about the role that some campaigners can have sometimes in criticising Members of both Houses. I think part of this is the give-and-take of public life and politics, but it can go too far. We also have to guard against things such as cancel culture that try to stop proper debate. It is good that we are examining these questions in this kind of detail.

I want to specifically support Amendment 74, tabled by the noble Lord, Lord Wolfson of Tredegar. We have yet to hear from him his specific reasons for this amendment, but it touches on something I raised earlier, in an amendment that preceded this, but also during my own remarks earlier today about atomic test victims. I have taken the trouble to go back to the debate of 19 December 1984, in which I participated, in which I said that, "The document"—we were talking about documents that had been concealed—

"gives the lie to the suggestion that service men were properly clothed or that proper precautions were taken".

This was in the context of ex-servicemen who were at Christmas Island or Maralinga being deliberately, it was said, exposed to the effects of radiation to test how good the protections were, or how flimsy they might be. I said in the House:

"One paragraph describes what the Army set out to do in the tests. It is a Ministry of Defence document which was top secret. It reads: 'The Army must discover the detailed effects of various types of explosion on equipment, stores and men with and without various types of protection.' So the men who were to be involved in the atomic explosions were to be exposed to the effects of radiation … to discover what the effects would be on them".—[*Official Report*, Commons, 19/12/1984; cols. 392-93.]

That is the very issue that was still being argued about as recently as 2 September. I referred to it earlier: the BBC *Newsnight* programme, where Victoria Derbyshire, doing her job in the media, cross-examined the former Veterans Minister Tobias Ellwood, who said he had misled Parliament because he had been deliberately misled by officials. These are really serious charges. I am not suggesting that someone should be prosecuted, but, given the harms test we were discussing earlier on, I would plead again with the Minister to take a look at this particular case and say what it is that we should be doing in those kinds of circumstances. What difference would this Bill make? If it would make no difference, I think we have failed one of its tests.

The other brief remark I want to make is about Clause 12 itself. I do not accuse the noble Baroness, or indeed my noble friend Lord Faulks, of acting in bad faith, which I think was the phrase the noble Baroness used earlier on, in any way. I do not think that they have acted in bad faith, of course; they have the absolute right to test amendments, but I would urge them to think very carefully before moving something as substantive as a clause stand part debate to remove a whole clause from this Bill. Clause 12 sets out the offence of misleading the public, which is fundamental to this Bill. I can only imagine the sense of bewilderment—perhaps even betrayal—among Hillsborough families who have worked so hard, tirelessly, for 37 years for a law to tackle the lack of accountability and injustice that characterised their experience. As we have heard repeatedly, many others have been denied justice and truth by a system that has favoured institutions and the powerful. If this clause were to be removed, it would represent a continuation—

Baroness Falkner of Margravine (CB): The noble Lord has alluded specifically to something that I said. We all understand the commitment made by the Government in their 2024 manifesto, and I do not think anyone in this House would not wish to abide by that commitment. The noble Baroness, Lady Fox, referred to it as a noble Bill, and I think the sentiment is widely shared that the things that have gone wrong in the past should not have happened under any circumstance at all, and that the circumstances of them were shocking—which is why we are here now—and reprehensible. However, to go back repeatedly, as the noble Lord has just done in speaking about Christmas Island and radiation and so on—

Captain of the King's Bodyguard of the Yeomen of the Guard and Deputy Chief Whip (Baroness Anderson of Stoke-on-Trent) (Lab): I apologise to the noble Baroness, but interventions should be short and ask a specific question.

Baroness Falkner of Margravine (CB): When the noble Lord wishes to remind us that this all relates to those events of the past, will he accept—here is my question—that, as a whole, British civil servants and the British state do not set out day to day to harm people but set out to do a job in good faith, but the implication of some of the debates we have heard is that they do not do that and they actually set out intentionally to harm? Will he accept that?

Lord Alton of Liverpool (CB): No, I do not accept that. I do not think the noble Baroness could have been listening to what I had to say earlier today about the deliberate changes that were made, for instance, to police notebooks to tell the opposite of what had taken place. I do not think she listened to what I had to say about the 20,000 ex-servicemen, some of whom are still alive, who were exposed to radiation in those tests. The families of those involved at Hillsborough, many of whom are alive today, still mourn the deaths of their loved ones. If she heard what I had to say earlier today in relation to one of my amendments, she would know that the noble Lord, Lord Lemos, and indeed the noble Baroness, Lady Levitt, spent a lot of time with one of those families today, talking to the sister and the mother of someone who lived for over three decades before he became the 97th victim because he had been crushed at Hillsborough.

These are not theoretical or abstract issues; they are issues that have to be settled by Parliament, and I think the Bill seeks to do that. If it were not for our Prime Minister, Andy Burnham, who waived the 30-year

rule when he was Culture Secretary back in 2009, 450,000 pages of previously withheld documents would not have become public, and I doubt we would be here today.

I remind the noble Baroness of the title of the report by the Bishop of Liverpool: *The Patronising Disposition of Unaccountable Power*. That title says everything that this House needs to hear about how we can be perceived outside. If we were to lobotomise the Bill by removing the whole of Clause 12—that is, after all, what a clause stand part amendment seeks to do, so I do not regard it as trying to look at the granular detail or provide improvements to the Bill—that would be very destructive indeed.

Lord Marks of Henley-on-Thames (LD): My Lords, in this group I do not propose to add to anything that was said by my noble friend Lady Brinton as to why Clause 12 is important.

It seems to me that there is an answer to the stand part notice tabled by the noble Lord, Lord Faulks, and the noble Baroness, Lady Falkner, and to some of the concerns expressed by the noble Lord, Lord Young of Acton, and the noble Baroness, Lady Fox of Buckley, which is that this offence in the Bill is confined to serious cases, and it involves and has to involve serious impropriety. That is the first safeguard.

The second safeguard is the consent of the DPP or of the Attorney-General.

Baroness Brinton (LD): It is the DPP.

Lord Marks of Henley-on-Thames (LD): It is the DPP at the moment but the Conservative amendment is trying to make it the Attorney-General. For my part, either consent is a serious safeguard. I do not believe it is likely that the Bill will ever be used in a case that is frivolous or a case that is simply trying to stifle free speech.

I do, however, agree with the noble Lord, Lord Anderson, that the inclusion of "obfuscation" as an indication of serious impropriety is bordering on the absurd, not simply because it is not easy to avoid obfuscating the meaning of the word obfuscation but because it is not a very serious test.

There is much of what the noble Lord, Lord Young, said that I cannot agree with. Nevertheless, he was speaking to Amendment 76. The drafting of the amendment is very specific and, I suggest, not offensive. The amendment could act as a serious protection of the right to free speech and journalism. It says:

> "An act is not seriously improper for the purposes of this section if it consists of … the expression of an opinion, or … a contribution made in good faith to debate on a matter of public interest, unless it involves the knowing assertion of a statement of fact which the person knows to be false".

For my part, I could not object to the inclusion of those words in this Bill, even though I disagreed with the general tenor of some of what the noble Lord said.

As to the amendments from the noble Baroness, Lady Levitt, I was persuaded by her that a public interest defence would probably work better and more effectively, and be more readily understood, than the reasonable excuse defence, which is the catch-all in the present drafting of the Bill. I also believe that the burden of proof being put on the defence in cases such as this is not remotely unusual, and that that would be acceptable.

I turn now to Amendment 75, in my name, to which the noble Baroness, Lady Brinton, has added her name. That would make it an offence for a person to encourage, directly or indirectly, or through a third party, a public officeholder to commit an offence of misleading the public. I will deal with this in some detail, because ancillary liability is often misunderstood and it generally follows a principal offence. It is necessary for ancillary liability for there to be a principal offence. This is not simple ancillary liability that would be added by this amendment. It is not ancillary liability for the encouragement or instigation of an offence. This offence would be committed even if there were no principal offence. The point of it is that an attempt to get a public officeholder to commit an offence of misleading the public under Clause 12 would be an offence even if the public officeholder resisted that attempt, so that there was no principal offence.

This is important. The anomaly has been highlighted by Spotlight on Corruption, and I am grateful for its briefings. Normal ancillary liability of a secondary offender requires that a principal offender commit the offence, but this would be committed by anyone who attempted to get a public officeholder to mislead the public in a criminal way within subsection (1), for whatever purpose, even if the attempt were unsuccessful. In that sense, the ancillary would be suborning, or attempting to suborn, the public officeholder. I suggest that that should be an offence of misleading the public or of inciting the misleading of the public. The attempt to undermine the probity of a public officeholder by attempting to persuade him or her to commit an offence justifies criminal sanction. For that reason, because of the suborning nature of the offence, it is unsurprising that Spotlight on Corruption has shown that interest, as it is a form of corruption that should be subject to sanction.

Lord Faulks (Non-Afl): I wonder if the noble Lord would be kind enough to answer this. He has dealt very fully with the reason for there being an offence, how it is justified and how important it is that there should be, as it were, teeth to the Bill, but he has not dealt with the second point that I made. What is the collateral effect of the existence of this offence on public administration and the attitude of public officials who would want, naturally, to avoid being prosecuted or contravening these rather complex provisions?

10 pm

Lord Marks of Henley-on-Thames (LD): The answer is that you have to trust in the robustness of public officials, because there is no reason why they should be scared of offending against these provisions if they avoid serious impropriety. There simply is not. This is an offence that is designed to be confined to serious cases whose prosecution involves the consent of the DPP—or the Attorney-General, depending on whose version you will accept. That does not mean that public officials are going to be so weak that they will

[Lord Marks of Henley-on-Thames]
change the face of their own administration or conduct for fear of prosecution for this offence. The offence is simply not likely to work that way; I do not believe there is any significant danger of any public official worth his or her salt being so deterred.

Lord Wolfson of Tredegar (Con): My Lords, I will begin with Amendment 74, in the name of my noble and learned friend Lord Keen of Elie, which I have signed. This got some indirect support—unusual for my amendments—from the noble Baroness, Lady Chakrabarti, in the previous group. I thank her in her absence. Perhaps more relevantly, it got a lot of support from the noble Lord, Lord Alton of Liverpool, in this group. I am grateful for his support because this amendment is a proposed extension of the new statutory offence under Clause 12 for the deliberate misleading of a Minister by a civil servant. The noble Lord, Lord Alton, gave us some examples across the years.

The short point is this: if the offence is to apply to Ministers, it seems sensible and logical that it should apply also to civil servants. The offence applies to debate outside this House. Of course, anything said in Parliament is, rightly, privileged; we had that discussion in the previous group. Given that, it is all the more important—it is paramount—that Ministers are not misled by their own officials before coming to this place. If we do not include civil servants within the offence, there is no way to hold officials to account when Parliament is misled. I am very grateful for the Minister's engagement to date. I respectfully ask him to look at this point again before Report, because we think it is a lacuna in the Bill.

I am aware that the Minister believes the offence to be covered by the offences in Clause 13. For this offence, however, it seems to us that it would be very important and sensible to have clarity on the face of the Bill. There was a suggestion that clarification is unnecessary because of existing case law on the common-law offence of misconduct in public office. The problem with that argument, it seems to me, is that Clause 17 expressly abolishes the common-law offence; it is difficult to see how a court would still rely on case law for an offence that has been abolished. Whether this evening or in a letter before Report, I would be grateful if the Minister could give the House clarity on that point.

I turn to the other amendments in the group. Amendment 72 from the noble Baroness, Lady Brinton, seeks to include providing misleading information to a news publication under the offence. The intention, obviously, is to improve the quality of public debate and tackle misleading information. Obviously, that is an outcome we would all support, but—it is an important but—there is a balance to be struck. We are concerned that introducing criminal offences in this area may have a chilling effect on public debate. We do not want to endanger high-quality, free debate in the public square. These Benches seek to encourage a public square that is vibrant, robust and may even be raucous, but that is important in a parliamentary democracy. That point was made eloquently by my noble friend Lord Young of Acton, who is a passionate and principled campaigner for free speech, and I have a great deal of—

Baroness Brinton (LD): I thank the noble Lord for giving way. I am concerned that the amendment I have put down is being seen the other way round: that it is stifling free debate with what the press say. It is not coming from that angle at all. It is coming from the perspective of the honesty of public officials, rather than suppressing freedom of speech out there.

Lord Wolfson of Tredegar (Con): I tried to make it clear that, obviously, we agree with the intentions underlying the amendment. It is the effect the amendment will have in practice that we are concerned about, because there is a balance to be struck here. We do not want to leave it, as my noble friend Lord Young of Acton says, to explanatory notes. When I heard that the noble Lord, Lord Marks of Henley-on-Thames, agreed with the thrust and perhaps even the wording of the amendment of my noble friend, it seemed to me that a Minister faced with an amendment with the support of them both is facing a very powerful argument.

Amendment 77, again from the noble Baroness, Lady Brinton—

Lord Marks of Henley-on-Thames (LD): I hope I made it clear that it was only the wording of the amendment with which I agreed, not the thrust of speech by the noble Lord, Lord Young.

Lord Wolfson of Tredegar (Con): The noble Lord absolutely did. I was picking the positive bits to try to put the noble Lord, Lord Marks, in the best light possible. I was going to be much more supportive of Amendment 77 from the noble Baroness, Lady Brinton, which is, with respect, a good probing amendment on the exception for those working for news outlets. It is particularly relevant in light of this weekend's news that civil servants were seconded to the BBC fact-checking services. That was described by some as a clear conflict of interest. I can see how that risks undermining public trust in our national broadcaster. I invite the Minister to reflect on the importance of trust in our news outlets when he replies to Amendment 77, and to say what steps Ministers are taking to prevent apparent conflict of interests arising in the future.

I turn to the Question that Clause 12 stand part of the Bill, tabled by the noble Lord, Lord Faulks, and the noble Baroness, Lady Falkner. This is a view, as they have said, which has been echoed by the Policy Exchange paper *Legislating for Candour?* on what the Hillsborough law is likely to do in government. Again, in his absence, in the previous group the noble Lord, Lord Carlile of Berriew, was not particularly complimentary about the paper. I am afraid I take entirely the opposite view; I think the paper makes a number of extremely persuasive points. With a foreword from noble Lord, Lord Butler of Brockwell, who has probably forgotten more about public administration than most of the rest of us will ever know, and whether one agrees with the conclusions or not, it is a very important contribution to the debate and I am sure that the Minister and his team will have looked at it.

Like the noble Lord, Lord Faulks, I think a few of the words in the criminal offence are vague in the extreme. We have looked at "obfuscation". Obfuscation

might have been invented by lawyers to ensure that even the accusation of being unclear is itself unclear. I think it was Lord Armstrong who used the phrase "being economical with the actualité", which was a fantastically obfuscatory way of saying what he was intending to say. Therefore, I agree respectfully with the noble Lord, Lord Anderson of Ipswich, that the words here need to be looked at carefully. It is not just "obfuscation"; we need to look at "repeated". In most political interviews today, the politician says the same thing about seven times. Even in a single interview, you are going to satisfy "repeated". On the word "significant", what does it mean? When you see it in an Act, you wonder if it means "very substantial" or merely "not insignificant". If it means the latter, it is a very low bar indeed. So, all those words need careful scrutiny. Again, I look forward to the Minister's response on that.

As the noble Lord, Lord Faulks, said, Clause 12 is not covered by the manifesto commitment. I will just say a further word about this. The noble Lord, Lord Marks, made a very important point about his Amendment 75; he said that it is a stand-alone offence, because it would be an offence even if there is no offence by the principal. He did accept—and was right to do so—that the normal principles of aiding and abetting would still apply. There is a real concern here because we are going to have this problem, I fear.

Clause 12 could change the relationship between Ministers and civil servants. For example, a civil servant might say, "Minister, I think if you give the speech you want me to draft, you will be making a misleading statement to the public. I am not going to work on that speech because if you give it, you will be committing a criminal offence and I might be guilty of aiding and abetting a criminal offence". Of course, the civil servant would explain their refusal as a principled objection to aiding and abetting the criminal offence but, in practice, there are various pressure groups who may put pressure on civil servants to take that view, or civil servants have their own political views. They are human beings; they may take a certain view due to their own political stance.

I am not making this up out of thin air. Under the previous Government, there were issues of civil servants saying that they did not want to work on particular policies because they might breach international law. But the Minister is not personally liable under international law, and the civil servant is certainly not personally liable under international law, yet they were raising this as a reason to not work on the policy. I appreciate that this is a somewhat nuanced point, and it may be something the Minister does not want to reply to this evening, especially given the hour. However, I invite the Minister to think about it carefully and would be grateful if he would consider writing to the Committee between now and Report.

I am conscious of the time, and I am also conscious that the noble Baroness, Lady Levitt, raised two points about the defence—changing "reasonable excuse" to "public interest" and changing the burden of proof. I was going to reply to those points in the next group, and I was wondering whether the noble Baroness, without any disrespect, would permit me to? As she said, they come in both groups and I have already spoken for long enough on this group.

Lord Lemos (Lab): My Lords, the noble Lord, Lord Wolfson, pointed out the agreement between the noble Lords, Lord Young and Lord Marks; unfortunately, there were many issues on which noble Lords did not agree, so if the Government were seeking a consensus across the House, it does not seem to be available for this set of amendments. However, I take the point that the noble Lord, Lord Alton, made, which is that this is precisely why we have Committee: to get into some of these nuances which might appear contradictory but on further discussion we will perhaps get somewhere.

This offence applies to public officials and public authorities on the basis that those entrusted by the public to positions of authority must not wrongly mislead the public. That is the whole point. We think it is right that they are held to a particularly high standard and should take responsibility for statements they make to the public. We do not think it is appropriate to extend this offence to private individuals or bodies.

In response to the noble Baroness, Lady Falkner, we are not saying that every public official is lying, but we are saying that we have expectations, as I have set out. However, a person who is not a public authority or official could commit an offence if they intend to, or believe that their actions will encourage or assist a public official or authority to, commit the misleading the public offence—which is, I think, what the noble Lord, Lord Marks, was driving at.

I can reassure the noble Baroness that the offence of misleading the public already captures misleading the public through the media, provided that such an act meets the threshold for the scope of the offence. However, the Bill has been carefully constructed so that the journalist reporting on that misleading information—and this goes to the point made by the noble Lord, Lord Young—is exempt, to ensure that the offence does not impinge on press freedom or existing regimes for media regulation. I hope that provides the noble Baroness, Lady Brinton, with some reassurance.

10.15 pm

The noble and learned Lord, Lord Keen, and I met over the summer, and I promised when we met that the Government would look closely at Amendment 74. Following careful consideration, we believe that a civil servant misleading a Minister would be capable of being captured by the new seriously improper acts offence in Clause 13. The noble Lord, Lord Alton, predicted that that would be my answer, and indeed it is.

As with the current common law misconduct in public office offence, which the Bill replaces, the seriously improper acts offence is designed to capture behaviour where any public officeholder abuses their office or neglects to perform their duties in the most egregious way. For this purpose, public officeholder is defined in the list in Schedule 4 to the Bill and includes civil servants, MPs and Ministers, among others. This could therefore include instances of civil servants misleading a Minister by virtue of their position, as long as the other conditions of the offence are met, including that they do so for the purposes of obtaining a benefit or causing another to suffer a detriment. Benefit and

[Lord Lemos]
detriment are deliberately given very wide meanings under this offence. A public officeholder's intent or purpose in acting is also central to the offence being made out, and this is important to ensure that those who act innocently are not criminalised.

Finally, a jury would also need to be sure that the civil servant knew or ought to have known that their actions or intended actions were seriously improper. It is an important principle of criminal law to avoid unnecessary or duplicative offences, as these can risk creating confusion for those enforcing or prosecuting the law.

Turning to the amendments in the name of the noble Baroness, Lady Levitt, the offence of misleading the public has a reasonable excuse defence. The defendant will have the evidential burden to raise the reasonable excuse defence, and the prosecution is required to prove beyond all reasonable doubt—as, of course, she knows—that the defence is not applicable. We chose this approach as it is a common formulation of defences against criminal offences, maintaining strict adherence to the presumption of innocence under Article 6(2) of the European Convention on Human Rights. We do, however, recognise the noble Baroness's concerns, and I will take away her proposal for further consideration.

The noble Baroness's Amendment 78 would replace the reasonable excuse defence for the offence with a narrower public interest defence. While acting in the public interest could be the basis of a defence, we think that, for a new offence of this kind, covering as it does all statements made by Ministers and public officials on a wide range of matters, it is important to retain the breadth of a reasonable excuse defence.

The noble Lord, Lord Young, raised a very important point and one the Government is very conscious of: the offence is not intended to restrict free and healthy political or public debate. I hear what has been said about the chilling effects and so on, but others have taken other views. Ministers and others must be able to contribute to free debate for the health of our democracy, as a number of noble Lords have said. We have crafted the offence carefully with that in mind. For an offence to have been committed, an authority or official must have acted with the intention to mislead the public or have been reckless as to whether their actions would do so. By reckless, we mean a person acting with the knowledge that there is a risk that they might mislead the public and taking that risk without reasonable justification. We had a discussion about recklessness last time. I have set that out now. It does not include accidental mistakes or inaccuracies.

The person must also have known or ought to have known that their act is seriously improper, and the minimum conditions for this are that the act involved significant or repeated dishonesty about matters of significant concern to the public. We had some examples of those earlier from the noble Baroness, Lady Chakrabarti, who is not in her place. The act must have caused, or had the potential to cause, harm; and, crucially, the act must have departed significantly from what would have been expected of that person in carrying out their functions. Taking these tests together, we are clear that someone expressing an honest opinion or making a contribution in good faith to a debate would not be captured. I hope that satisfies the noble Lord.

Finally, I turn to the opposition of the noble Lord, Lord Faulks, to Clause 12 standing part of the Bill. Let me address briefly why the Government consider that the clause should remain part of the Bill. The offence is triable either way and carries a maximum sentence of two years' imprisonment, reflecting the seriousness of the misconduct at which it is directed, which is the whole basis of the Bill. The clause also excludes acts done for the purposes of journalism. This reflects the Government's view that news broadcasters, who might otherwise fall within scope, are not culpable when reporting information for the purposes of journalism. This ensures that responsibility remains with those who mislead the press, rather than with the press for reporting that information.

We do not agree that the tests for the offence are vague. Necessarily, they have to be general enough that they can apply in a broad range of scenarios, but together, rightly, they amount to a high threshold for a prosecution to meet. A prosecutor would need to establish that an authority official acted with the intention of misleading the public or were reckless as to whether their act would do so. "Reckless" here means that they foresaw a risk and took it anyway, without a reasonable excuse. The prosecutor would then need to establish that the authority or official knew or ought to know that their acts were seriously improper. The Bill sets three conditions that must be met:

"that the act … involved dishonesty that was significant or repeated … in respect of matters of significant concern to the public … caused, or contributed to causing, harm to one or more other persons, or had the potential to do so, and … departed significantly from what is to be expected in the proper exercise of the person's functions as a public authority or public official".

Lord Anderson of Ipswich (CB): I am grateful to the Minister and I am mindful of the hour. The Minister speaks of a high threshold and says that this offence is intended to catch only public officials who neglect to perform their duties in the most egregious way. But, as the noble Lord, Lord Wolfson, and I pointed out, the central element of the offence—dishonesty—can be made out by repeated, insignificant obfuscations. That seems a little difficult to reconcile with what the Minister is saying. Would he be prepared to think again about the content of Clause 12(3)(a) before we get to Report and have to vote it all out?

Lord Lemos (Lab): The answer to that question is yes. I am very happy to debate with the noble Lord, Lord Anderson, and others who are interested, particularly on the point about obfuscation; I was just about to say that.

The Government's view is that the policy objective underpinning this clause remains both necessary and proportionate. The offences have been carefully drafted, incorporate a high threshold and contain a number of important safeguards and defences. The Government do not consider that existing mechanisms alone adequately address this type of conduct. Ultimately, the question before the Committee is whether this provision should remain part of the Bill. For the reasons I have outlined,

the Government consider that it should. I therefore respectfully ask the noble Baroness to withdraw her amendment.

Lord Faulks (Non-Afl): From his notes, the Minister has very thoroughly answered the various points about the elements in the offence, which he describes as a high threshold, but he did not deal with any of the points that were made about the potential chilling effect, the effect on how public administration will work in practice and the effect that the possibility of prosecution might have on very many—he has not answered my question about how many—public officials, and how they might view that possibility. Does he have a view on that?

Lord Lemos (Lab): I think I set out in what I said about the threshold why we thought this would not have a chilling effect; that was the whole point of my peroration about the high threshold. The noble Lord may not accept that, but that is the point I was making. The chilling effect will be, to some extent, protected by the thresholds for prosecution. On the question of numbers, I think the noble Lord said there were 6 million civil servants. As yet, there are not 6 million civil servants, or anything like it. The numbers of public officials are perhaps something we can come back to.

Baroness Brinton (LD): My Lords, I am very grateful for the wide-ranging debate we have had in the last hour and a bit. The hour is late, so I will not go through any of the details. Suffice it to say that the House has asked the Minister to engage on various points between Committee and Report, for which we are all particularly grateful. I hope we can move forward in the spirit of the Bill and recognise that there are times when we will need to make sure that officials cannot deliberately mislead and lie. I know that some of that debate happened in earlier groups tonight; none the less, given that we will come back to this on Report in due course, I beg leave to withdraw my amendment.

Amendment 72 withdrawn.

Amendments 73 to 80 not moved.

Clause 12 agreed.

Schedule 3 agreed.

House resumed.

House adjourned at 10.26 pm.

Grand Committee

Monday 19 October 2026

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Baroness Fookes) (Con): My Lords, I must make the customary observation that, if there is a Division in the Chamber, the Committee will adjourn immediately and resume after 10 minutes.

Railways Bill

Committee (5th Day)

Scottish and Welsh legislative consent sought. Relevant document: 4th Report from the Delegated Powers Committee.

3.45 pm

Clause 25: Designation of services by Secretary of State

Amendment 148

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

148: Clause 25, page 14, line 27, leave out "may" and insert "must"

Member's explanatory statement

This amendment ensures that the Secretary of State must secure the services they designate.

Baroness Jones of Moulsecoomb (GP): My Lords, my Amendments 148 and 152 are about making sure that the Bill does not leave the door open for a return to private ownership or private operation of our railways. I want to raise a concern about the way that the Bill repeals much of the Passenger Railway Services (Public Ownership) Act 2024, and the consequences that it has for public ownership.

The extent of that repeal is tucked away in paragraph 11 of Schedule 4, which removes Sections 23 to 31 of the Railways Act 1993, which were inserted by the 2024 Act. In practice, that strips out almost all the 2024 Act's substantive provisions. We have already discussed some of the consequences in Committee. It means that GBR companies could become public/private partnerships rather than remaining wholly publicly owned, as the 2024 Act required. It also creates problems for the public sector equality duty because the relevant entries in Schedule 19 to the Equality Act 2010 refer to provisions that this Bill removes.

I want to focus on another consequence, which is the arrangements for designating services and awarding public service contracts. Repealing most of the 2024 Act removes the requirement for designated passenger services to be secured through direct awards, regardless of which franchising authority is responsible. Instead, Clauses 25 and 31 introduce a problem that the Government need to address. Clause 25 says:

"The Secretary of State must designate railway passenger services, or a description of railway passenger services",

but Clauses 25 and 31 say that the Secretary of State "may" secure their provision. Where the Secretary of State does secure those services, the Bill requires the Secretary of State to do so through a direct award to GBR or a GBR company, but there is no corresponding requirement for them to secure the services they designate and no clear provision explaining what happens if they do not.

That leaves a significant gap in the Bill. If the Secretary of State designates services but does not secure them, who exactly is meant to do that? What powers would they use? What kinds of contracts could be awarded, and to whom? Could this wording allow a GBR company to award a contract to a private operator under arrangements resembling the franchising model that the Government say they want to move away from? I am not suggesting this is necessarily the Government's intention, but I would like very much to hear what the Minister has to say. The Bill needs to make it clear that its provisions cannot be used to bring back private operation by the backdoor.

On Report in the Commons, Richard Burgon MP stated on the record that the Rail Minister had committed to resolving this drafting issue specifically to ensure that the designation powers

"cannot be used for back-door privatisation".—[*Official Report*, Commons, 10/6/26; col. 342.]

Will the Minister please confirm that commitment today? More importantly, will he explain how the Government intend to close this gap in the Bill, so that the arrangements for securing passenger services are clear and the move to public ownership cannot be undermined by the way that contracts are awarded? I beg to move.

Lord Grayling (Con): My Lords, I have a series of amendments in this group, but I start by picking up on a point made by the noble Baroness, Lady Jones. She and I will not agree on some aspects of this, but an important issue comes out of her amendment. I do not actually agree with her, as I am not convinced that the Secretary of State should be designating services at all. If this is to be a change to a point where we have track and train united, it is surely the job of GBR itself to work out what the network can and cannot deliver.

This drives very much to the points in my various amendments, certainly my earlier ones, which say that the Secretary of State must take into account

"the rail freight target under Section 17, and … the infrastructure capacity plan".

We cannot have a situation where the Secretary of State is able simply to shoot blind to respond to political pressure and say, "I want to have four services an hour from Scunthorpe to London", for political reasons or otherwise. There has to be a degree of realism in what the network can and cannot absorb.

One of the things that went wrong with franchising over the last 15 or 20 years was that, as the network became more crowded, a bid would come along to say that all these extra services were going to be delivered when the network could not actually cope. Before the pandemic, one of the key reasons for the lack of reliability was that we were trying to run too many

[Lord Grayling]
trains on too little track. You have to remember that the network back in Victorian times, when it was twice as long, ran far fewer trains. It has settled down somewhat since the pandemic, but there are still parts of the network that are immensely overcrowded and where the ability of politicians to simply say that we are going to do that is limited.

The first elements of my Amendments 149 to 151 are designed simply to say to the Government that this legislation must put something of a break on what the Secretary of State can do. Regardless of where the service is designated from, it is simply not practical to have people sitting in the DfT deciding what train services should run. Indeed, I thought the whole point of this legislation was not to go back to a situation where politicians had control or carried the can for what went wrong in the network. It is designed to make this independent of politics, so why is the Secretary of State able to designate services at all? It is surely the job of GBR to balance all the competing needs of passengers, freight and capacity to work out the most realistic package of services that can be run. I am intrigued to hear the Minister's defence of politicians and the Department for Transport being able to designate services at all.

I move on to the other amendments in my name. Here, I want to drive to the complete inconsistency in this legislation in a couple of areas. Why can the Mayor of London and, I believe, the mayor of Merseyside continue to commission services from a private company but no one else can? If the Scottish Government decide that they want to commission in exactly the same way that the Mayor of London does, why should that not be possible? Why does this legislation rule that out? The Minister needs to explain in detail why this is the case. Either we have a situation where every railway in the entire country is publicly owned and run—which we might disagree with but let us at least have a degree of consistency—or a situation where different bodies can commission from other providers, as long as they can demonstrate best value in doing so. Why is it one rule for one and another rule for another in the way this legislation is set up? I look forward to hearing the Minister's explanation.

To me, the most important amendment here is Amendment 153A. I commissioned the review back in 2018 after the timetable fiasco, when it was quite clear to me—I had pretty much worked it out—that franchising no longer worked and we needed a fresh approach. I invited Keith Williams to carry out the research because I believed that one part of the future of the railways needed to be through employee-owned businesses. Indeed, I envisaged regional public interest companies, with the employees having a substantial stake. Rather than feeling free to go on strike all the time, they would have a stake in what they lost through revenues if they went on strike. They could benefit from working together to improve capacity, reliability and the rest. It is a matter of great regret to me that we did not reach that point, and the current Government have not reached that point.

If I remember correctly, I am addressing a Minister from the Labour and Co-operative Party, so why is it not possible for a co-operative to run part of the railway? Why is it not possible for an employee-owned business to run services on the railway? That seems completely incongruous. It runs against 150 years of Labour history, and it misses a great opportunity, because employee participation, generally speaking, improves the performance of a business or an operation. I see absolutely no reason why, in future, Great British Railways or the mayors of devolved administrations should not have the freedom to commission rail services from companies that are wholly or substantially owned by their employees—that is, co-operatives. If the Minister genuinely represents the Labour and Co-operative Party, perhaps he could tell me why he and this Government no longer seem to believe in co-operatives.

Lord Faulkner of Worcester (Lab): My Lords, I speak to Amendment 158, tabled by the noble Lord, Lord Parkinson of Whitley Bay, and me. We both have unpaid interests as the chair and the president, respectively, of the Heritage Railway Association. We are concerned about the wording of Clause 32(4), which describes an "additional railway asset" as

"any network, station or light maintenance depot".

Can my noble friend the Minister confirm that the powers of the Secretary of State relating to assets do not apply to assets on or owned by heritage railways? It is a simple and, I hope, non-controversial issue.

Lord Harper (Con): My Lords, the noble Baroness, Lady Jones, was seeking my support for her amendments earlier. Although we fundamentally disagree—and, I suspect, always will—about whether railway services should be provided by private companies, her amendments do the Committee a useful service.

I want to reinforce and support what my noble friend Lord Grayling said. I genuinely do not understand two things in the Bill. Amendment 148 in the name of the noble Baroness concerns Clause 25 on the

"Designation of services by Secretary of State".

I agree with my noble friend. I thought the whole point of setting up GBR was to get the Secretary of State out of the business of micromanaging services and deciding which services should be provided and which should not. My reading of the Bill and the Explanatory Notes is that this is about deciding which services GBR should provide, but I am not entirely certain.

Once you start a Secretary of State doing that process, they will come under an enormous amount of political pressure to start deciding which services are run, rather than GBR doing it at arm's length. If anything, that will just increase political control of these matters rather than reduce it. I thought that the whole point of this was to get the Secretary of State out of the detail of running the services rather than inserting them back into the picture. I would welcome the Minister explaining the thinking behind that power for the Secretary of State in Clause 25.

The linked Clause 31 is about securing those services. I agree with the thrust of the amendments tabled by my noble friend. I happen to be very comfortable with services being provided by private companies under all sorts of models, but even if you think that it is important that the services are specified and tightly managed by

a public sector provider, there is no reason why a private company cannot provide the services under a contract, as my noble friend said.

We have talked about this in previous debates. The model in London, for example, where TfL sets out in detail the services that should be provided but can award the contracts to provide those services to private companies—it does not have to own all the trains, employ all the staff and run all the services—seems a perfectly sensible option that should be kept on the table rather than ruled out. It may be that GBR finds that there are no attractive companies that offer such services at a competitive price and it ends up awarding those contracts to operate those services to GBR-owned businesses, but ruling out giving it the option to do so seems rather perverse.

As my noble friend said, ruling out the option of having a business which is at least partly owned by the employees or fully co-operative also seems overly prescriptive. You can take the Government's view of not wanting to have the franchising model and you can stick to that, but not allowing yourself to use the model that is used very successfully in London and, as my noble friend said, will still be able to be used in places such as Liverpool seems rather unwise. I do not know why Ministers are not giving GBR the freedom to do that, where that is cost-effective for taxpayers.

4 pm

Lord Moylan (Con): On that point, does my noble friend agree that circumstances might arise where, in fact, GBR wishes to run a service but does not have adequate rolling stock, yet there is a private sector company that has rolling stock for which it has no use? That would be a match made in heaven but would appear to be precluded by the way in which the Bill is drafted. It is another instance where making use of the private sector to run the service would be in the public interest.

Lord Harper (Con): My noble friend makes a very good point. If you are going to set up GBR and give it the job of doing the detailed day-to-day management, you want to give it the maximum amount of freedom to do so. You can rule out certain models, of course. If you do not want to have the franchising model, for example, you can say that that is not appropriate, but to say that you cannot use the private sector at all seems not to be sensible.

That is also not consistent with other decisions that Ministers have taken. For example, they have no plans, as far as I understand it, to get rid of the roscos—the companies that own the rolling stock. Those are private businesses that make profits that will be paid for from funds from both passengers and taxpayers for the rolling stock. Ministers are not getting rid of those, because they cannot—they have no ability to put all that debt on to the public balance sheet, otherwise I suspect that they might be tempted, but they cannot—but ruling out people running services when, as my noble friend said, they might have the rolling stock and the ability to do so misses what the point of GBR is. The point of GBR is to run passenger services, to deliver good services at the lowest possible cost both to passengers directly through ticket prices but also to the taxpayer, and to invest in infrastructure so that other operators, open access operators and rail freight can also operate on the network.

Again, the Government say that they support open access. Those are private companies. The Government say that they support rail freight. Those are private companies. Having this blanket ruling out of private companies operating services even under a concession model does not seem enormously sensible. I would welcome the Minister taking us through the thinking about how the Government arrived at that conclusion of ruling out even concessions, for example, whereas they are comfortable with them happening in other parts of the country, such as London.

Lord Berkeley (Lab): My Lords, I have a question or two for my noble friend resulting from this interesting debate. My first question is: do you have to be designated to be able to run a passenger service? It is not quite clear to me, therefore, whether the status of the current open access operators will survive. If anybody else wants to show up and become an open access operator, will they be allowed, and on what basis? Clearly, if it involves any state support or comes from GBR, that is a different matter, but it is possible for open access operators to operate at a profit.

What, therefore, is the role of GBR and the Secretary of State, if any, in designating what such operators may or may not do and when? Or is designation purely a means of providing, as my noble friend may say, a fair appointment of an operator to operate a particular line? Freight does not come into this, but I think open access passengers will be very interested to know whether the Secretary of State, under this or other clauses, will be able to prevent them from operating. It has nothing to do with capacity, charges or anything else, but it seems to me a bit woolly at the moment.

Baroness Neville-Rolfe (Con): My Lords, I want to make three quick points. I think this has been a very good discussion, and I thank the noble Baroness, Lady Jones, for introducing it. First, I think my noble friend Lord Grayling is completely right to worry about freight. As noble Lords will know, my background is in the retail industry, and using rail for freight was a big headache in terms of conflicts on the use of the line. Secondly, I support the noble Lord, Lord Faulkner, on heritage railways, because we have campaigned together to make sure that heritage railways continue to be vibrant, and I think the question he has asked about their assets is very important. Finally, I support the opt-out for TfL and Liverpool. If things are being run well, you should continue them. My only question is: why are operators such as Chiltern Railways condemned to being wound up and put in the public sector when they provide very useful competition and a good alternative for people going to Birmingham?

Baroness Pidgeon (LD): My Lords, it feels like there is a lot of confusion in this group in trying to understand the Government's intention. Amendment 160, on which we will hear from the noble Lord, Lord Moylan, caught my eye because it is basically about repealing

[Baroness Pidgeon]
the Passenger Railway Services (Public Ownership) Act 2024. We will debate things such as open access and other areas where I know Members think there is room for some further improvement and clarity in the legislation, but I welcome the noble Lord, Lord Grayling, admitting that franchising no longer worked. It is good to have that on the record, because sometimes when we are debating the railways, it feels like people are saying that everything has worked perfectly well in recent years. That clearly is not the case. The railway has a long way to go to run with the passenger at its heart and deliver the quality service that we all want to see.

Lord Grayling (Con): I simply say that what I said this afternoon is not new. That was the whole reason that the Williams review was set up in the first place, six, seven or eight years ago. I do not think my saying that franchising was not working is somehow a new thing on the record; I have said it many, many times.

Baroness Pidgeon (LD): In my view, it is new in our debates on the Bill. I absolutely accept the noble Lord's point about the Williams review. I met Mr Williams at the time and talked through how London worked. We all fed into that review. The challenge is that we have amendments before us today about allowing the private sector to operate some train services on behalf of the Secretary of State. The preferred model that came out in that review was for a concession model, as we have in London and in Merseyside, because of the success of that, but the previous Government did not implement that, and this Government have chosen not to implement that. That is the challenge we face, and it would be interesting to hear how the Minister responds to those points that were made earlier.

I fear that, as we move forward, open access—assuming open access can carry on running the passenger services that it currently operates—is the only way we are going to see growth on the railways, because the budget for transport is going to be under so much pressure. We are not going to see the railways grow in the way that has perhaps been envisaged with this legislation. I look forward to hearing the Minister's response to the points that have been raised.

Lord Moylan (Con): My Lords, let me begin by responding briefly to the noble Baroness, Lady Pidgeon. If she goes back to our debates on the then passenger railway services Bill two years ago, the noble Baroness might remember, because she was already dealing with transport from the Front Bench at that stage, I think—

Baroness Pidgeon (LD): No.

Lord Moylan (Con): Perhaps, then, there is every excuse for her not to know this, but she will find there quite a detailed analysis from me as to why the franchising system had ceased to be effective. It has been fully acknowledged that a number of systemic reasons, to which Covid was added as a practical final nail in the coffin, meant that the franchising system did not work. However, that did not mean that there was no role for the private sector; the concession model was available as an alternative. As I have said in Committee previously, we believe—and we are quite right in saying this—that there is no rationale for going for a fully state-owned, Soviet-style railway that is run and provided by the Government and wholly excludes private sector competition except, at the moment, certain residual open access routes.

I thank the noble Baroness, Lady Jones of Moulsecoomb, who has, with her customary textual acuity, put her finger on something that the Government need to explain: why the Secretary of State "must"—they have no choice—designate routes on the one hand but then "may", and only "may", procure them. A number of objections to this have been raised. Two former Secretaries of State for Transport have said that they think it undesirable for the holder of that office to have this power. I am not going to dissent from that argument, but I have my own questions because I am not entirely sure what it means to designate a service.

The noble Lord, Lord Berkeley, also asked about this; the nub of what he was asking was, "What does it mean to designate a service, especially if you don't have to provide it? It is only the case that you may provide it if you choose". Does this mean that Great British Railways can provide only services that have been designated? If it does not mean that, and it can provide other services over and above those that have been designated, what is the point of designating? Or does it mean that the designation of a service, which may not then be procured, relates only to services that Great British Railways does not want to run or does not have a financial incentive to run? Is it, therefore, a sort of obligation on Great British Railways, which may then be procured from Great British Railways, thus forcing it to provide such services? These might be loss-making, commuter-type services that need heavy subsidies and which Great British Railways would close down if it were interested only in covering its own costs. Nobody quite grasps the point of designation in the first place, whoever does it and whatever the consequences of it. We would like to hear more about that.

We would also like to hear more, at the simple textual level, about what "may" and "must" actually mean and how they interact between Clauses 25 and 31. This goes back to the point made by the noble Baroness, Lady Jones; although I do not agree with her on what the effect should be, we all agree, I think, that the text should make some coherent sense. So the Government have quite a big job to do in explaining all of this to us at this stage.

Before I move on to my own amendments, I wish to express support for the amendment standing in the name of the noble Lord, Lord Faulkner of Worcester, which does not apply only to heritage railways; we will come to this again later on, I think. This power on the part of Great British Railways to go around seizing private assets will, I imagine, be possible only after the Government have come round to supporting the Conservative policy of leaving the European Convention on Human Rights, because that would preclude them from going around seizing private assets. What do the Government intend here, and why should they be

trusted with such broad and unlimited powers if they have only a very limited and specialist focus in view? That is, to some extent, the question being asked by the noble Lord, Lord Faulkner.

My own Amendment 157 is a detailed sort of amendment. Clause 32(3) exempts Great British Railway's award of contracts being published in advance. I can certainly see that, in a competitive tendering situation, the main point of publishing contracts that will be awarded in advance is to allow people who wish to bid for them to have fair and equal knowledge of what is coming up so that they can make a decision about whether to bid and put the resources into doing so.

4.15 pm

If you are allowed for some reason—an ideological reason we do not understand—to award the contract only to one party, there obviously will not be any competition. There is, however, considerable public interest, and parliamentary interest, I would say, in the contracts that are going to be awarded. They should be exposed to the light of day before they are awarded. We should not find out after they have been awarded what they contain, because it might be the case that public scrutiny could have improved the terms of the contract considerably. This blanket exemption should be removed and the status quo maintained, which would be the effect of Amendment 157.

My Amendment 160, to repeal the existing Passenger Railway Services (Public Ownership) Act, caused some excitement on the part of the noble Baroness, Lady Pidgeon. It is there simply because it is a necessary consequence of the amendments tabled by my noble friend Lord Grayling, which would allow for private sector or corporate sector operation on the railway, as the sole effect of that Act is to prevent the Secretary of State awarding new or renewed franchises to anybody other than a state railway company. Clearly, it would have to be annulled before my noble friend's amendments could be brought into effect. It is simply there as a necessary consequence, rather than the attempted revolution that the noble Baroness spies. None the less, it would indeed be a very good thing to do.

The Minister of State, Department for Transport (Lord Hendy of Richmond Hill) (Lab): My Lords, I will deal first with Amendments 153, 154 and 155, then Amendment 160 and then Amendments 153A, 154A, 155A and 155B.

As has been made very clear since this Government came to office, we were elected with a clear mandate to nationalise the railways, a policy supported by three-quarters of the public according to recent surveys. We are ensuring that GBR is owned by the British people and run in their interests, not in the interests of private profit. Repealing the public ownership Act or allowing Ministers to award service contracts to private companies, even those that are employee-owned, would return franchising to our railway. As the noble Lord, Lord Grayling, and others have said, franchising, as it has evolved, has failed passengers, caused costly inefficiency and created a system focused on attributing blame to multiple operators and the infrastructure manager, rather than fixing the problems that plague our railway.

Lord Grayling (Con): I hate to correct the Minister, but he is talking about franchising. Everyone on this side has been talking about concessions of the kind that happened in London. Can he confirm that, after this legislation, the Elizabeth line will still be able to be operated by a private company?

Lord Hendy of Richmond Hill (Lab): The noble Lord stood up before I had moved on to the concession model, so perhaps I had better do that. The Williams review looked to a concession model for operating passenger services. The previous Government had that review in draft in 2021 and published it in 2022. They could have taken forward that model for the four operators then in public ownership—including, indeed, any version of employee ownership that they chose—but they did not. The reason they did not is that the private sector owning groups at that time were opposed to that model and continued to be so until the election of this Government, whose manifesto commitment is for public ownership, which the public support. Concessions would mean the taxpayer continuing to fund profits of private sector operators and their shareholders—money that could instead be spent on improving services or reducing the subsidy.

Concessions are inflexible. They are suitable for metro-style services such as London Overground, or indeed a big city's bus network, but not the national railway network, which will benefit from the flexibility of a directing mind able to enact change through new timetables, tickets and fares, and which is regarded by passengers as a network.

Lord Moylan (Con): My Lords, I suspect the noble Lord will be interrupted several times during this. I do not really wish to interrupt him here because he may well come on to answer my question. How is direct designation of services by the Secretary of State, which suggests something put in place for a reasonably long term, compatible with flexibility? Of course, I hope it is not excessive flexibility, because otherwise passengers would not know where the trains were from one day to the next.

Lord Hendy of Richmond Hill (Lab): I think I will answer the noble Lord's point in due course, but I just wanted to finish on the basic model to start with.

Lord Harper (Con): If the Minister will forgive me—

Noble Lords: Oh!

Lord Harper (Con): I want to ask the Minister a specific question about something he said, which I think I am perfectly entitled to do, and I did not want him to move on to the next section. He was quite clear that he does not want a model of any description, including concessions, where private companies are

[Lord Harper]
making any profits at all. Can he therefore explain the point that I raised? Why, in that case, are the Government content to continue to have rolling stock owned by ROSCOs, which make significant profits, if, by his definition—which I do not agree with—those profits are then taken out of the system and not used to reduce taxpayer subsidy? Intellectually it makes no coherent sense at all.

Lord Hendy of Richmond Hill (Lab): I will deal with that point in passing before I finish on the original point. The other reason the Government are committed to the course of action they are embarked on is to stop the friction between train operation and infrastructure operation, which is at the root of many of the problems. The rolling stock companies are not in that position. People do not spend hours and hours, huge volumes of money do not circulate around the system, compensating for delays, and it is a much simpler process. However, the noble Lord will also have seen the Secretary of State's recent comments on rolling stock, where she said that in appropriate future cases we will consider whether leasing is the right thing to do.

I will finish on the point about franchising concessions. I will say just one thing to the noble Lord, Lord Grayling, about co-operatives: there will be nothing to prevent a GBR subsidiary having an element of co-operative ownership so long as GBR has a controlling interest. Although I think he is wrong about the need to adjust the legislation for it, it is an interesting proposition, and this model does not rule it out.

Let me look at Amendments 148 to 152, which are at the heart of the designation issue.

Lord Grayling (Con): I want to ask a few questions as a result of that, about the categorisation of GBR companies. Would a GBR company be able to be a private but public interest company, with employees having a stake?

Lord Hendy of Richmond Hill (Lab): Let me answer that in correspondence, because it deserves a careful response.

It is worth clarifying what this designation issue is all about and what the designation of passenger services by the Secretary of State is for. It is designed to set the limits of the services that may be delivered by GBR: in other words, the services that the Secretary of State has not devolved to mayors. The designation of passenger services will not be a detailed document like a timetable. Instead, it will broadly set out the responsibilities for the running of services between relevant authorities. For example, exemption from the Secretary of State's designation is the method by which passenger services were devolved to Transport for London. A draft Secretary of State designation was published on GOV.UK on 20 January, which helps to demonstrate what it would look like. If noble Lords would like to see a copy, I will send it to them after this debate.

It is the public service contract that the Secretary of State will issue to GBR under Clause 31 that will require passenger services to be provided and through which those services will be funded. The contract will define the services in more detail for the purposes of describing what is being funded. That is a separate process to designation, which is really all about devolution. This is relevant to the point made by the noble Lord, Lord Lansley, the other day about how passenger services are funded, and I thank him for a productive conversation on that during the recess. There is nothing in these clauses that can be used as a backdoor for the privatisation of passenger services, nor does designation affect open access or freight services. I hope that this reassures the Committee that this is what it is, and no more, and that the noble Baroness can withdraw her amendment.

On Amendments 149 to 151 from the noble Lord, Lord Grayling, I agree with the first part of his speech. I hope that he is already reassured by the explanation that I have just been through, but let me be clear: designation is not a detailed service specification, nor does it determine network access or capacity allocation. It does not interact at all with the question of whether freight or open access services can run on the network and it does not prevent any of those services from securing access, which is a separate process. Ministers' designation powers do not override or conflict with GBR's role in making access decisions and do not interact with, conflict with or undermine the safeguards for freight or other operators. Designation powers are simply a method to demonstrate where devolution to local authorities such as TfL has occurred and that is all.

To move to the topic of public service contracts, as in Amendments 157 and 158, the Government are required to transparently publish relevant information about the contract, such as contract dates and the parameters of financial compensation, within two months of entering into it. Publishing pre-award information for a public service contract a year in advance would be unnecessary and impractical. In fact, this requirement was already disapplied in the public ownership Act of 2024, as it is no longer appropriate to the new model. In the old system, publishing such information in advance provided transparency, allowing prospective operators to challenge a proposed direct award and argue that a competition should be held instead. In the new system, such challenges would serve no purpose, as the Secretary of State is required only to award the service contract directly to a public operator. The focus for public service operators should be on delivering for passengers with efficient and clear reporting, not building in unnecessary delays.

GBR's business plan will ensure transparency, as it will describe its intentions on passenger services and this will be consulted on before it is funded and implemented. The public and industry will have ample time to review it, and the ORR will be able to provide comments on it, before it is signed off by the Secretary of State. As I explained during debate on the funding groups, the business plan is the method through which GBR activities are made transparent and it is held accountable for them. This ensures appropriate scrutiny can take place ahead of the contractual process. I turn to—

Lord Moylan (Con): My Lords, before the noble Lord moves on, the business plan operates at one level of generality. It is most unlikely that the business plan will contain detailed specifications of which stations are to be served by such services as may be provided, say on the Chiltern line or the Brighton main line, or what the frequencies are, when they might stop and so forth. But those things are of deep interest to passengers who make use of those services, and potentially to others, and I imagine that they would be contained in the contract issued for carrying out those services.

I think that there is a great public interest in seeing these things beforehand. The noble Lord more or less admits that there is such an interest, but he thinks that they are available through the business plan. There is no reason to think that. Does he not agree that simply allowing the public to see in advance what the contract that is to be awarded is would allow appropriate feedback and comment? It may actually improve the service and do what he wants to do, which is to create a railway focused on passengers.

Lord Hendy of Richmond Hill (Lab): I completely agree with the noble Lord that it is important that passengers know what potential service improvements or changes are to be made, but I do not agree with him that publishing pre-award information for a public service contract a year in advance would satisfy that aim. It would be a very cumbersome way to do what a decent operator should do, which is to consult people in advance.

4.30 pm

Lord Moylan (Con): Nor would the business plan. The noble Lord may be able to satisfy my concern by saying that there is an alternative and better way of doing it, but the business plan is not that way.

Lord Hendy of Richmond Hill (Lab): My answer to the noble Lord is that the business plan will have quite a lot of detail. It may not include every service change and it may not reflect the future flexibility with which services can be changed, but it is clear to me that a responsible operator—GBR and its subsidiaries will be responsible—will consult people at a time when the service specification can be altered. If you publish the contract at any stage before it comes into effect, that is a stage after any changes ought to be made.

I turn to Amendment 158 from the noble Lord, Lord Parkinson, which was spoken to by my noble friend Lord Faulkner. I confirm that these powers cannot be used to seize heritage assets. Clause 31 makes clear that public service contracts must be awarded in accordance with the public service obligations in the 2023 transport regulations. Heritage passenger transport services are explicitly excluded from the scope of those regulations, meaning that a contract cannot contain terms about heritage services or their assets.

Clause 32 then explains the terms and conditions that may be included in the public service contract between the Secretary of State and GBR. It states that the contract may require GBR

"to operate, or secure the operation of, any additional railway asset",

such as a depot. This is aligned with the existing drafting in the Railways Act 1993 to ensure that GBR can own and operate things that are necessary to run passenger services, such as depots, as operators can today. However, this does not give GBR the right to compulsorily seize or take over such assets. There may be exceptional circumstances in cases of shared usage assets between mainline and heritage services, where I expect that GBR and heritage railways will establish practical arrangements between them, as is done today, but the Bill does not give Ministers any new powers in this area. I hope that noble Lords are reassured.

Lord Grayling (Con): The Minister has not answered my question about the Elizabeth line. Why is it okay for a commuter going from Reading to London to travel on a train that operates as a private sector concession, but if, for example, the Mayor of Manchester wants to run a service from Knutsford to Manchester Piccadilly, that can only be a state-run railway?

Lord Hendy of Richmond Hill (Lab): I think that the mayors of combined authorities, with the powers that they have been given, are responsible people and they should have some freedom to do what they want to do with the part of their business that involves operating railway passenger services. The point of this legislation is to deal with the largest part of the railway network in a way that is easy to understand and that produces a network that the public can rely on.

Baroness Jones of Moulsecoomb (GP): My Lords, I thank all noble Lords who contributed to this debate. I feel that I have not played a full role because I did not interrupt the Minister when he was speaking—sorry about that.

Lord Moylan (Con): You get the chance to speak at the end, you see.

Baroness Jones of Moulsecoomb (GP): That is true, but do not interrupt me as well as the Minister.

I reassure the noble Lord, Lord Harper, that I was not serious when I said that I wanted him to support my amendments. I have had a tough few weeks for various reasons and I think that my sense of humour is slipping and my jokes are not landing quite as well.

Perhaps because I am tired, I am actually a little bit sympathetic about some of the things that the noble Lord, Lord Grayling, has said. I do not have much faith in politicians either, particularly Secretaries of State who seem to think they have all the answers. I can sympathise with that. The point about the devolved mayors and devolved Assemblies is very good as well and perhaps needs clearing up.

I feel there are gaps in the Bill, which is the point I was trying to make originally. I note the Minister's commitment and his commitment for the Government and so on, but these are drafting issues that ought to be mopped up and I do not see why that has not been done; the Bill has to be clearer. I also thank the noble

[Baroness Jones of Moulsecoomb]
Lord, Lord Moylan, for talking about my textual acuity; I am sad to say this is other people's textual acuity—

Lord Moylan (Con): Oh no!

Baroness Jones of Moulsecoomb (GP): I am afraid so—I stand here as just a puppet, though obviously caring very much about the issues.

I seriously think that there are gaps in this Bill that need filling in, and I think I will have to keep coming back to this. But in the meantime, I beg leave to withdraw.

Amendment 148 withdrawn.

Amendment 149 not moved.

Clause 25 agreed.

Clause 26: Designation of services by Scottish Ministers

Amendment 150 not moved.

Clause 26 agreed.

Clause 27: Designation of services by Welsh Ministers

Amendment 151 not moved.

Clause 27 agreed.

Clauses 28 to 30 agreed.

Clause 31: Provision of railway passenger services

Amendments 152 to 155B not moved.

Clause 31 agreed.

Amendment 156 not moved.

Clause 32: Contracts awarded under section 31: supplementary

Amendments 157 and 158 not moved.

Clause 32 agreed.

Amendments 159 and 160 not moved.

Clause 33: Fares

Amendment 161

Moved by ***Lord Moylan***

161: Clause 33, page 18, line 37, at end insert—

"(4) The rail strategy published under section 15 must include proposals for preventing and reducing the evasion of payment of fares for railway passenger services, including proposals relating to—

(a) deterrence,

(b) detection and enforcement,

(c) the recovery of unpaid fares, and

(d) cooperation between Great British Railways, providers of railway passenger services and the British Transport Police Force."

Member's explanatory statement

This amendment would require the Secretary of State's long-term rail strategy to include measures to prevent and reduce fare evasion, including measures concerning deterrence, enforcement, revenue recovery and cooperation with the British Transport Police.

Lord Moylan (Con): My Lords, I shall be fairly brief in opening this debate, although it contains a large number of amendments in my name, because the real purpose is to give the Government an opportunity to set out their policies and plans on two crucial areas. The first, which is connected to Amendment 161, relates to fare evasion, which has become, as I think everyone is aware, very much more a social issue, a problem and a widespread crime than it ever has been in the past. It needs tackling and attention given to it. Government information estimates that between £350 million and £400 million a year is lost through fare evasion and ticketless travelling.

Fare evasion is associated with another great social evil which concerns me and I know concerns the Minister—assaults on railway staff. They remain a significant concern, and fare enforcement can itself be a trigger for threatening or violent behaviour. It is no longer the solitary ticket collector wearing his uniform wandering up and down the corridor on the railway collecting fares. Now, it is of necessity a group of three or four revenue protection officers working closely together as they go through the railway car seeking to collect fares. That is because of the potential for violence, which now has to be reckoned with and taken very seriously in a way that was never the case in the past.

Last month, the Government confirmed that they are developing a new cross-industry framework, supported by improved data sharing, to identify persistent fare evaders, deter repeat offending and recover unpaid fares. Can the Minister shed some light on what that framework is going to involve? Will it form part of the long-term rail strategy? My Amendment 161 would require the long-term rail strategy to include credible plans for dealing with fare evasion and for the protection of staff, particularly in that connection. When do the Government expect the framework to be published and implemented?

Turning to Amendment 161A, I want to explore a question of some political interest. Both the Minister and I were closely involved with Transport for London in different capacities for a number of years. One of the features was that the fares were set by the mayor. Not many people always realised this. TfL made many operational decisions but did not, in fact, have the power to set the fares for its own services. One might say that that is a bit odd, but the advantage of giving that power directly and personally to the mayor was political accountability, in that the mayor could be held responsible for the setting of fares by Transport for London for its passenger services. I know that there are pros and cons to that.

My amendment opens the discussion around the role of the Secretary of State in setting fares. As far as I can see, under the Bill as drafted, the Secretary of State has no role in the setting of fares. Therefore, there is no accountability for fares to the public or to Parliament. Of course, in a normal business, it could be said that, if you set your fares or your prices too high, your customers will go elsewhere, but, in this Soviet-type model, there is nowhere else to go—except for the odd residual open access service that might be allowed to continue in operation for a short time. How do we square this circle? How do we have fares set in a way that is not directly and obviously open to political manipulation but has a degree of accountability so that the customer, who has nowhere else to go and no choice to make, cannot simply be ripped off? Because it has followed this ideological route, I do not think that the Bill gives a satisfactory answer to that question, so I would like to hear what the Minister has to say about it; I am sure that he has given it considerable thought, but, in my view, it has not been satisfactorily resolved.

I have a number of other amendments in this group: Amendments 162 to 164 and 166 to 175. I will briefly speak to them in one go. They concern discounts on fares. The Government have given verbal assurances that veterans and former members of the Armed Forces, for example, will have their discounted travel on the railways maintained, but nothing in the Bill protects the categories that exist at the moment. Indeed, should they be protected? Is it the Government's intention that they should be protected? We do not know.

At this point I should say that I am—it will not surprise noble Lords—the possessor of a Senior Railcard. When I book my ticket and click the drop-down box to find the Senior Railcard so that I can take advantage of it, the list of railcards from which I could choose is huge. Some of them are regional cards; some are for strange categories of person. They have obviously built up over a long history and never really been weeded—should they be? What is the Government's intention? None of this is vouchsafed to us in the Bill, and no protections are put in place for those persons we believe should continue to benefit from those discounts. These amendments are there to explore all that and to give the Government the opportunity to put on the record now, at the Dispatch Box if not in the Bill, what their clear intentions are and what commitment they are making to those who benefit from discounted rail travel at the moment. I beg to move.

4.45 pm

Baroness Pidgeon (LD): My Lords, I will speak at this point because I have quite a lot to say and I want to set out my amendment in this group. One of the most important issues for passengers is fares. The cost of catching a train is often key to the decision to choose the train rather than a different mode of transport, or indeed not to travel at all. The fare system, as it stands, is incomprehensible to most people—probably even the Minister—and it is not trusted. People always feel that they could have got a better deal somewhere else, perhaps on a different app, or if they had gone and bought their ticket in person. They often feel that they are being ripped off. We strongly believe that, for the railway to be truly passenger-centred, it needs to offer incentives for passengers to try the railway and a loyalty scheme for regular passengers. We believe that Great British Railways needs to look at how to get more people using the railway rather than cutting trains to reduce costs.

There are good initiatives in other European countries, such as the Netherlands, which has a tap-in, tap-out system for its whole network. I am aware that there are some innovations in the UK, which I will come on to. Transport for London is a trusted brand: its fare caps are trusted and there is great transparency. There is a lot we can learn from that.

My Amendment 165, which has also been signed by the noble Lord, Lord Hampton, seeks to establish a "rail miles" scheme, which would allow for discounted fares for frequent travellers. The scheme would extend the concept of air miles and promote greater use of the railway and domestic tourism by making journeys on our railways as valuable a commodity as air miles are seen as today. So many people I know talk about air miles and their accumulation of them, so why not have rail miles as well? It would promote the railway network, reward loyal passengers and be a brilliant way of promoting domestic tourism, whereby passengers would be able to accumulate rail miles as they can currently accumulate air miles. It would be a really good way to promote lower-carbon transport. Our proposed new subsection (1A) in Clause 34 would be a step change to the railways, rewarding frequent passengers and, surely, would be part of the added value of this new publicly owned railway.

A similar scheme is currently in operation on Eurostar for international travel. Passengers can join Club Eurostar and earn points that can be used to pay for journeys, discounts on bookings and upgrades to seats, among other benefits. There are also other excellent international schemes, and I thank the Library for its information on this. SNCF has a scheme in France which allows you to earn points with every booking that can be used for complimentary tickets or discounts on services, or donated to environmental organisations. BahnBonus operates on Deutsche Bahn services throughout Germany and, for business, into the Netherlands, Sweden and Croatia. Loyalty points can be used for free e-tickets, partner vouchers and upgrades to first class. In Italy, a scheme is available on high-speed rail, and points can be used for free travel and other rewards. In the US, Amtrak customers can access the Amtrak Guest Rewards programme, which lets customers earn points for train travel and other purchases and services. Even in China, the China Railway loyalty programme enables passengers to earn points by buying tickets for railway journeys. Under its programme, young members and senior passengers can also earn additional points which customers can redeem for free tickets.

We have seen innovation in this country. Avanti West Coast has its Club Avanti scheme, which has a tiered programme for loyal travellers. I looked on its website over the weekend and that scheme now has a million members. It is hugely successful. If members of it make nine journeys within 12 months, they get elevated to a different level and receive certain free

[Baroness Pidgeon]
travel tickets, a welcome hot drink and so on—really making it a joy to use the railway and encouraging people to use the railway frequently. The benefits of such a rail miles scheme would be to encourage people to return to the railway time and again, reward passengers for regular use, and provide additional flexibility and discount. I commend this idea to the Minister and hope that he will give it serious consideration. The retail sector uses loyalty schemes to keep customers and to understand their interests, their spend and their patterns. This is something our railway should embrace, as countries are across the world.

Other amendments in this group support the continuation of discounted fares for various groups. I should declare now that I do not yet have a Senior Railcard, as other noble Lords here may have, but I have a Family & Friends Railcard. Although all these schemes are really important, they have not stopped some companies moving over into public ownership, as we have seen. Perhaps the Minister can confirm the situation here, because these are really important schemes that encourage people to use the railways. I look forward to the Minister's response and to our important rail miles amendment, which we think would be a game-changer for passengers and for the railway.

Lord Berkeley (Lab): My Lords, I have a couple of questions for my noble friend on this group. The first is on Amendment 161. Obviously, I support the content of the amendment. It needs to be done—it would be done anyway, one hopes—but it is a question of whether issues such as the recovery of unpaid fares, detection and enforcement would apply to open access passenger trains. Does somebody else do that? If so, who? I am pleased to see the British Transport Police mentioned in the amendment.

On Amendment 161A on the level of fare, the comments from the noble Baroness, Lady Pidgeon, and others on the level of discounts are very important. I do not think it is all that complicated. As the noble Lord, Lord Moylan, said, there may be lots of buttons, but in Devon and Cornwall we have what you might call regional buttons. They apply only there and only to fares which can be used within the area.

On all these things, how much involvement is there by the Secretary of State? This is something that has come up several times today. Is this going to be controlled by the Secretary of State personally? I think Ministers have been trying for a long time to avoid micromanagement from Marsham Street and to let the people who are running GBR or the open access people do what they are able within the legislation.

Lord Hampton (CB): My Lords, I speak partly because I added my name to the very fine amendment from the noble Baroness, Lady Pidgeon, and partly because I hope, by standing up, to get a bit warmer in this remarkably cold Room. I was going to describe it as the noble Baroness's excellent idea but, from her introduction, it has obviously been used a lot, in Europe anyway. It is good news. Quite a lot of what we have talked about in the last few days has been quite gloomy, and such a good idea is a way to cheer people up. We know the lessons from Beeching: if you take people off the railway, they stay off the railway; if you get people on the railway at the source, they stay on and make longer journeys.

We are constantly being told that information is the new gold. This would be a brilliant way to get passenger information so that we can start selling them other journeys, perhaps. We could be predicting loads of stuff, which is such a good way of doing things. We could even link Delay Repay to it—for anybody who, like me, has struggled with Avanti's Delay Repay and its byzantine system, that could only be a good thing.

We talked about railcards, and I would like to associate myself with the remarks of the noble Lord, Lord Moylan, about retaining the HM Forces Railcard. There are important sectors of the community that need free travel. I was shocked to hear that the noble Lord, Lord Moylan, has a Senior Railcard; I have just taken advantage of that myself.

Noble Lords: No!

Lord Hampton (CB): Thank you—I was hoping I would get that reaction. I played to the gallery on that.

I ask the Minister: why is transport the only sector where you—students, senior citizens—have to pay for a discount card after a certain time, whereas in most places you get it for free? Perhaps that is another thing entirely. However, this is part of the brave new world of rail travel in the UK, and I really think we should go with it.

Lord Harper (Con): My Lords, there are a couple of areas that I want to focus on. First, I strongly support my noble friend Lord Moylan's Amendment 161, insisting that, in the rail strategy, Ministers include proposals for preventing and reducing the evasion of fares. I support it for two reasons: there is clearly a revenue purpose for doing this, but there is also a basic fairness purpose. There is nothing more irritating for passengers who pay their fares than seeing people who do not, and then nothing happens as a result.

The one point I would add is that we should look at what we can build into the system to make it more difficult for evasion to happen. There was nothing more irritating—well, there were many things more irritating—but, on this particular aspect, one of the most irritating things, particularly when I was Secretary of State, was turning up at a station and finding that all the ticket barriers were open and people could just wander in and out without having to demonstrate that they had a ticket. I am afraid that, when I saw that, I used to take a photograph of said ticket barriers and send it to my special adviser. He used to then make the appropriate comments to the appropriate rail company about why they were giving away free money. It is just irritating. I therefore strongly support my noble friend's amendment, particularly designing in—or out—people's ability to evade tickets. The last thing we want is to spend a huge amount of money on staff and British Transport Police having to do the enforcement. The best thing is to work out a system where you make it as difficult as possible for people to evade paying in the first place. It is a very good amendment.

The second set of amendments that my noble friend has tabled are those on discounts, with his specific focus on veterans. I make a plea to the Minister. In Clause 34, the Government clearly feel that discounted schemes are a good idea, but they have done that thing that often happens in legislation: as soon as you have a list of something, you have the undue specificity problem. The clause refers to young, elderly and disabled people and, although a subsection says that there is no prevention of other people being included, the fact that it has specified only those three groups of people will inevitably focus discounts in those areas.

I ask the Minister to reflect on whether, without making the list excessively long, the specific proposal from my noble friend to include veterans, who are not necessarily otherwise included in one of those other sections, would be a welcome addition to the Bill. It would be helpful if the Minister could indicate—maybe not today—whether he would do so and would bring forward an amendment on Report. That would save my noble friend having to retable his amendment. I suspect that his amendment on veterans would get a lot of support.

I was taken with the amendment spoken to by the noble Baroness, Lady Pidgeon. My only reason for not immediately supporting it has nothing to do with its quality. It is just that I am a bit loath to have lots of specific things set out in the legislation. I would prefer, frankly, that the discount fare scheme clause was much less specific or written in a way that would encompass the sort of scheme that she set out. It may be worth the Minister considering whether that clause could be better drafted to encompass what the noble Baroness wants to do with a scheme that reflects somebody's usage—as opposed to their characteristics—but, if it is to cover characteristics as well, whether it should also encompass the one set out by my noble friend Lord Moylan.

5 pm

My final point comes back to my noble friend Lord Moylan's point about who is accountable for setting fares. Clause 33 allows Ministers to use their power of direction to direct GBR about the level and structure of fares, but it does not require Ministers to do so. My noble friend's amendment would make that more explicit. There is a genuine question here about accountability; you could argue that this runs counter to the point I made about GBR owning these responsibilities and Ministers getting out of the business but, equally, Ministers are in the business of setting fares.

The Government have made a great deal of their policy of freezing rail fares. We made a great deal of limiting rail fares at particular levels and keeping increases at the rate of inflation when we were in government. It seems unlikely that Ministers will not want to get involved in setting fares, so the Bill should be amended, reflecting my noble friend's point, to make it explicit that it is Ministers who will set fares and give that direction to GBR at the top level, and then GBR will do a lot of the detailed work.

The reason I think it inevitable that Ministers will end up setting fares is that the rail industry requires a great deal of subsidy, particularly a nationalised rail industry. That subsidy has to come from taxpayers. The Treasury will set the department a budget and, inevitably, rail fares will have to be set to balance the contribution made to running those services from passengers through the farebox and the contribution made by taxpayers coming from the money from the Treasury, which goes to the Department for Transport, which then goes to GBR.

Ministers will inevitably have to make decisions about fares, so the Bill might as well reflect that that will happen and be more explicit, with either a "must give this direction to GBR" or an amendment along the lines of the one set out by my noble friend Lord Moylan. That would make it explicit that it is not GBR that sets the level and structure of fares, but that it is properly a decision for Ministers, who are democratically accountable. That is what will happen and the legislation should therefore reflect reality, rather than pretending that in some way Ministers are not accountable for the fares charged to passengers.

Lord Hendy of Richmond Hill (Lab): My Lords, this Government want to make train travel more affordable for everyone, which is why we have announced the first freeze in rail fares for over 30 years. Affordability will also be a key consideration for the Secretary of State in setting the strategic parameters for fares. That is why, on 15 September, we published a fares factsheet, setting out the objectives the Secretary of State will pursue and how this will enable wider reform of fares, ticketing and retail.

Looking at Amendments 161 and 161A, I completely agree with the figures that the noble Lord, Lord Moylan, raised, on the rough levels of fare evasion. Although the long-term rail strategy will reflect the need for GBR to protect its revenue, contrary to Amendment 161, I do not believe that the strategy is the appropriate place to propose exactly how it will do that. The Secretary of State and I announced in July an additional £33.4 million to crack down on fare dodgers, with new ticket gates for stations across England, but we must allow these decisions to be made at the right level and in an agile manner. For example, having provided that money, I think it is the job of railway operators to decide which gates go in which stations and will have the most impact.

The noble Lord, Lord Moylan, is right to raise fare evasion and I agree with him absolutely that we do not tolerate any assault on any member of staff for any reason, including fare evasion. However, decisions on how to tackle fare evasion must be a matter for Great British Railways, in collaboration with the British Transport Police and other stakeholders, including mayoral strategic authorities.

The noble Lord, Lord Moylan, referred to the framework. It will be in place by the end of 2026. It is preferable for railway operators to formulate their own detailed approaches to fare evasion because we know that this is an evolving and fast-moving area. It is certainly not something that one would want to see in a 30-year strategy. I say in answer to my noble friend Lord Berkeley that open access operators collect their own fares and make sure, as should all operators, that the people who travel with them have paid.

[Lord Hendy of Richmond Hill]

Amendment 161A concerns the structure of fares. I think that it is clear in the Bill that the accountability and transparency sought by this amendment are already there. The Secretary of State will set fares objectives and controls within which GBR must operate. Guidance on how GBR should set fares will be periodically reviewed alongside funding decisions—clearly, because, as noble Lords have remarked, the railway consumes a great deal of public subsidy—and reflected in GBR's five-year business plans. GBR would then manage fares within that framework.

The fares policy will also be aligned with the long-term rail strategy. This means that GBR will be expected to run the railway on a financially sustainable, efficient and value-for-money basis, balancing fare income with public funding while supporting an affordable and accessible railway. I believe that this gives the Secretary of State appropriate oversight of fares policy, reflecting her accountability to Parliament for the overall objectives and public funding of the railway while allowing GBR to take day-to-day fares decisions. Any significant changes would need to be consistent with the business plan, which the Secretary of State will have already signed off. This is clearly a superior model than requiring the Secretary of State to approve changes to the structure and level of fares, which would duplicate the existing provisions and potentially reintroduce the very detailed ministerial involvement in the railway that the Bill seeks to prevent.

I turn to Amendments 162 to 179, save for Amendment 165, which I will come on to later. Discounted fares are vital in keeping rail travel affordable for many passengers. As has been remarked, under Clause 34, discounts for young, senior and disabled passengers will continue to be protected in statute. We know that the cost of rail travel can be a significant barrier for these groups, given that they are likely to be on lower incomes than other adults. Maintaining these concession schemes in primary legislation ensures that we continue to have an inclusive railway. It also supports access to employment, education, training and vital services.

This is not to say that other concessionary schemes are not important or that they will not be continued. However, the noble Lord, Lord Harper, had it when he said that there is a question around specificity. I agree with him; let me explain why. In relation to veterans, the Government fully recognise the enormous contributions that have been made by members of the UK Armed Forces, veterans and their families. The UK Armed Forces railcards are one way in which we honour the sacrifices made by this community. Meanwhile, the 26-30 Railcard was introduced in 2018 in recognition of the comparatively high living costs and low earnings of this age group—challenges that remain nearly a decade later. There are no plans to withdraw any of these concessionary schemes or to reduce the level of discount.

Let me explain, though, why we do not see the desirability of putting this into statute. Clause 34 has been drafted to provide flexibility in the design and operation of discount fare schemes. By minimising the number of schemes listed in the Bill, we enable GBR to update and evolve concessionary offers as the needs of passengers change. Amendment 166 would undermine the ability to develop these offers, even where changes would plainly benefit passengers. Take, for example, recent changes to the non-statutory 16-17 Saver Railcard, which gives young people half-price travel. Saver Railcards bought on or after 17 August 2026 are now valid for a full 12 months from the date of purchase; they will no longer automatically expire when the holder turns 18. Similarly, we expanded eligibility for the statutory Disabled Persons Railcard in September; passengers with a long-term impairment, health condition or neurodivergence that has lasted, or is expected to last, at least 12 months and significantly affects their ability to use rail services will now be able to apply. These kinds of beneficial and common-sense adjustments would be far more difficult if Amendment 166 were to be accepted.

There are currently two railcards for the Armed Forces. His Majesty's Forces Railcard costs £21 a year and offers one-third discounts for serving personnel, their spouses and dependent children. The Veterans Railcard is £35 and gives one-third off adult fares and 60% off for accompanying children. I hasten to add that that would not be possible under Amendment 179, which rigidly seeks to set discounts at one-third off—no more and no less. In future, it might be desirable to combine these railcards to ensure consistent terms and conditions between veterans and serving personnel and their families, or to update the terms to make the railcards more relevant to the people who use them. GBR should be able to consider options like this. If we enshrine more schemes in primary legislation, as the noble Lord proposes, it becomes rather difficult to amend and improve them. For the avoidance of doubt, I say from this Dispatch Box that the Government are committed to continuing these entitlements and, as I have just described, will endeavour to improve them.

On Amendment 165 from the noble Baroness, Lady Pidgeon, I expect GBR to continue providing current railcard schemes while innovating to develop new options, which is why I welcome the intent of the noble Baroness in tabling her amendment as well as the remarks of the noble Lord, Lord Hampton. Once established, GBR will be able to consider various means of encouraging more people to travel by rail. Customer loyalty schemes are one of many possible tools. The noble Baroness is right to draw attention to the potential benefits of such schemes. Where they have succeeded, it has generally been due to careful commercial design and by responding to customer behaviour, as demonstrated by LNER's domestic model and the various international programmes that she described. Unless I am mistaken, those international examples do not rely on specific legislative provision. Loyalty schemes are simply one form of discounting and, in our view, do not need to be expressly provided for in this Bill.

I want GBR to have the opportunity to assess the evidence and determine what works best for passengers before we prescribe it. Any loyalty scheme would, for instance, need to reflect the diversity of rail users. The needs of regular commuters may differ significantly from those of occasional leisure travellers, and different market conditions may apply in each case. I agree with the noble Baroness on the potential benefits that loyalty schemes can bring and I am grateful to her for raising

this issue. I am happy to discuss it further with her outside Committee. I hope that what I have said enables the noble Lord and noble Baroness not to press their amendments.

Lord Moylan (Con): My Lords, I am grateful to noble Lords for what I think has been a useful debate and to the Minister for his response. I understand that the framework on fare evasion is to be published in the not-too-distant future; I am happy to wait to see that. It is a great pity, as we say all the time, that we are being asked to pass this legislation irrevocably without being able to see the documents that will accompany it and give effect to it. Nevertheless, I am grateful for the Minister's answer on that subject.

On the question of what is the right level at which to have a fare evasion strategy, my amendment is clearly strategic; it asks for a strategic response, and that it should be in the long-term rail strategy seems appropriate. The Minister's view is that these matters should be dealt with by individual train operators more or less at the station level. There are important things to do at the station level, of course, but something is missing: the strategic layer—the thing that brings it together, the single directing mind, the source of best practice and the pattern that gives communality to the way in which enforcement is carried out. That does not happen if everything is left to individual rail subsidiaries working at the station level.

5.15 pm

So, when the Minister said that the right level at which this should be carried out was not in the strategic rail plan, I expected him to go on and tell me what the right level was at which a strategic plan could be articulated, because that might be a positive response. We generally agreed that something must be done, but where is it to be done? Where are those strategic elements of it to be done? There came no answer. So I suspect we will have to return to this when we reach Report.

I still think there are serious issues about accountability for fares on a no-choice railway, which is what the Government are imposing on the country. There will be one provider, one decision-maker and one single directing mind. Although the Secretary of State can give guidance on fares, I would expect that to be at the level of telling Great British Railways how much it has to generate in fares, given the level of subsidy that is available—a decision that will, we hope, be made on a five-year basis—and giving indications of that sort.

If it is left to Great British Railways to decide what to do with those instructions, then it will be for Great British Railways to decide, without accountability, how the pain of such direction—there is always pain with fares—is allocated. Should commuter fares be higher and long-distance fares eased to encourage more long-distance travel and compete with the domestic air services? Should there be more discount schemes and more encouragement for the young but at the expense of passengers who do not benefit from discount schemes? Should there be a greater burden of fares on first-class travellers and less so on those travelling in standard class? I am not suggesting that there are right or wrong answers to questions such as those; my point is that decisions such as those have to be made, and they are the decisions that allocate the pain. There is no accountability about all this, and there is no choice. There is no other railway to use, apart from a few residual open access services, which will eventually wind down. This cannot be left; the Bill has to have some notion of how this is addressed so that we have proper accountability. Again, we will come back to it.

On discounts, I understand what the noble Lord says. I think there is some confusion on his part. On the one hand, we should trust GBR to do this and to make these decisions, because they are part of a broader picture of stimulating demand and rewarding usage, as the noble Baroness, Lady Pidgeon, suggests, through loyalty schemes and so forth, of which she gave many examples. But, on the other, he is tying himself now at the beginning, and possibly for years to come, to the existing discount schemes, and he is not willing to be open about them. If you have tied yourself to those, there will not be a lot of scope, unless the Treasury is very generous, for additional discount schemes over and above that.

So there is a bit of a problem, but there is a particular problem in relation to former members of the Armed Forces, which we are likely to return to on Report. But, in the meantime, I beg leave to withdraw my amendment.

Amendment 161 withdrawn.

Amendment 161A not moved.

Clause 33 agreed.

Clause 34: Discount fare schemes

Amendments 162 to 179 not moved.

Clause 34 agreed.

Amendments 180 to 182 not moved.

Clause 35 agreed.

Amendment 183

Moved by ***Lord Evans of Guisborough***

183: Before Clause 36, insert the following new Clause—

"Purpose of the Passengers' Council

The purpose of the Passengers' Council is to—

(a) champion the interests of all users and potential users of the railway, including, in particular, the needs of disabled persons,

(b) advocate for the reliability of passenger services, covering punctuality, cancellations, short-forming, delays and the reliability of key connections,

(c) advocate for safety and security, covering safety incidents, security incidents affecting passengers, staff presence, and delivery of safety-critical maintenance,

(d) advocate for passengers' comfort and on-board experience, covering cleanliness, the functioning of heating, air-conditioning, and lighting,

overcrowding, the availability and performance of any internet connection or power sockets, and toilet facilities,

(e) advocate for affordability and value for money, covering fare levels, availability of discounted or flexible fares, transparency of fare information, and passenger perception of value for money, and

(f) advocate for passenger growth and network expansion, covering growth in passenger numbers, the number of communities served, service frequency, and the provision of new or restored services."

Member's explanatory statement

This new clause would give a statutory purpose to the Passengers' Council to champion the interests of all rail users.

Lord Evans of Guisborough (Con): My Lords, I will speak to Amendment 183 and no fewer than 10 other amendments that I have in this group, although I hope to be relatively brief. These amendments all concern the powers and duties of the passenger watchdog, the Passengers' Council, which is referred to here. I have a fairly lengthy interest in passenger representation which goes back to 2004 when the noble Baroness, Lady Featherstone, became chair of the London Assembly's transport committee and I was appointed her deputy. The committee had a very wide-ranging role, so she asked me to take on the role of reviewing the performance of what was at the time the London Transport Users' Committee.

The London Transport Users' Committee was an unusual organisation. It covered a much larger area than Greater London because it covered the airports as well. It was also unusual because its management board, its supervising board, had more members than it had members of staff and, although they were very committed to improving transport services in London and very interested and very well informed, a lot of those people had backgrounds in the transport industry, particularly the rail industry. They often seemed to feel that the interests of the rail provider were exactly the same thing as the interests of the passengers. They could not really discriminate between the two. They were products of what my noble friend Lord Moylan—who, sadly, is not in his place at the moment because I am sure he would agree with me—calls the no-choice railway or the Soviet-type railway. They had been in public service for so long that they thought they knew exactly what the passengers wanted without actually asking the passengers themselves.

The amendments here are designed to bring a little more focus to the Passengers' Council and give it more powers so that it becomes a body that has some real teeth on behalf of passengers and to differentiate between what might be in the interests of the railway providers and in the interests of their passengers.

My Amendment 183 seeks to introduce a new clause that would define the purpose of the Passengers' Council with six different subsections. The first seeks to

"champion the interests of all users and potential users of the railway, including, in particular, the needs of disabled persons".

The next seeks to advocate for reliability, and lists the various measures of reliability for passenger services. The following seeks to advocate for the "safety and security" of passengers on railways. Another seeks to advocate—this has a broad heading—for passengers' "comfort and on-board experience"; I briefly touched on this in our previous debate. That includes the availability of power sockets and the provision of wifi for passengers; that was not important in the past but certainly will be in the future. There is then a subsection that seeks to

"advocate for affordability and value for money",

and another, looking forward, to advocate for "passenger growth" and coverage. I am pleased to move this amendment, as it spells out the function of the council and aligns it better with what we know passengers' priorities to be.

As I stated, I have 10 other amendments, and I will visit them very briefly. Amendment 186 seeks to amend Clause 36(b), to change

"make efficient use of those funds"

to

"ensure value for money through a cost benefit analysis",

which is a stronger and more focused definition.

Amendment 187 seeks to add the requirement for Ministers and GBR to respond to Passengers' Council representations within one month. That is important because, otherwise, these things can drag on. It would require a timed response.

Amendment 188 seeks to add a requirement for the Passengers' Council to assess user satisfaction every 12 months. This is intended particularly to deal with the tendency of such organisations to conflate the needs of the provider with the needs of the users. A survey will give the council a clear steer about what it should be looking for.

Amendment 189 seeks to give the Passengers' Council the role and power to deal with unsatisfied requests, rather than referring them to the ORR. It would be a faster process, less bureaucratic and make the Passengers' Council stronger.

Amendment 190 means that contraventions of the licence or the condition of any passenger licence will have to be referred to the ORR and the Secretary of State. It would remove a potential loophole that could be commonly used to avoid doing that.

Amendments 191, 192 and 193 are all designed to ensure that, where a contravention of a licence is referred to, action is taken by the ORR. We would leave out the second option, which is to take no action if a contravention has been referred to the ORR.

Amendment 194 would replace "may" with "must" in Clause 43(3), so that if the Passengers' Council prepares a report of an investigation, it must then publish it. This will ensure more openness and accountability for the passenger watchdog.

Finally, Amendment 195 would add a requirement to publish such a report within six months of the investigation, again providing a deadline.

That is a brief run-through the various amendments that I have tabled, and I look forward to hearing the Minister's comments, as well as those of other Members of the Committee.

Baroness Jones of Moulsecoomb (GP): My Lords, I have seven amendments in this group. I am not sure that I will be brief, but I will try—did I just hear a noble Lord groan?

My Amendment 204A is rather daring because it tries to improve on the amendment of the noble Baroness, Lady Brinton, and the noble Lord, Lord Holmes, who could be said to have more experience of what they are trying to do. My Amendments 183A and 204B seek to put in strong rights-based duties for passengers and disabled people, as well as the general duties of both watchdogs: the Passengers' Council and the London Transport Users' Committee. These are to

"protect and promote the rights and interests of users and potential users of railway … services"

and

"to protect and promote the rights and interests of disabled persons".

These general duties are very important.

5.30 pm

As discussed on day 4, regarding my Amendments 330K and 334A, the Bill will deregulate the condition in current legislation that railway licences—all types, including GBR's licence—must have regard to the general duties. The Rail Minister has suggested that this will not matter because the ORR and the Secretary of State would still be bound by licence conditions when setting the licence conditions. However, passenger-related and accessibility-related conditions will not be set by these bodies, as they are moving to the Passengers' Council, which will not be subject to the general duties. It is in this sense a two-step deregulation of standard setting, which will sever all links between the general duties and the setting of passenger-related licence conditions. This is not to mention the fact that all monitoring and enforcement is also moving from the ORR—the much stronger regulator—to the Passengers' Council, a much weaker body without any enforcement powers of its own.

The general duties of the council therefore become of pivotal importance, yet it has just two: a duty to be cost-efficient in all its functions and a duty for disabled people, which is nowhere near strong enough and might merely be seen as a way of shifting statutory responsibility for accessibility to the council, away from the ORR. It is extremely odd to see that there is no duty to promote the interests of passengers. If you compare this to the Clause 18(2)(a) passenger and disability duty, it is clear that these duties are the most minimal possible version.

Returning to my Amendments 183A and 204B, it is vital that these lay down the need to protect and promote the rights and interests of passengers and disabled people. Ideally, this model would also be used in Clause 18, which would be a much-needed strengthening of the language there too. "Protect and promote" is a rights-based formulation that ensures not just improvement but protection and non-regression of existing standards. "Rights and interests" is much more powerful than simply "needs and interests". In particular, why should disabled people have anything less than a rights-based standard? It is also important that passengers and disabled people have separate subsections. This would be a crucial part of legal clarity, ensuring that each group has equal standing and preventing the possibility of any trade-offs overall between different groups of passengers.

As part of this stronger rights-based approach, Amendments 184A and 204C would omit the cost-efficiency duty from both watchdogs' general duties. It is, essentially, an overarching duty for all their functions. Again, it should not be possible to compromise rights standards or enforcement based on cost. The concept of rights creates its own minimum baseline.

Moving to the Passengers' Council itself, let us be clear: Amendments 188B and 204A provide little more than the existing watchdog Transport Focus, with largely the same provisions as in current legislation—a model not updated since 2005. The Government's cost-impact assessment for the Railways Bill illuminates the thought processes behind this. Pages 65 to 66 explain that they chose to use a Transport Focus because this required the "least change". It acknowledges that the

"simplest governance and oversight arrangements"

would have been for the ORR to retain and expand its passenger-regulatory powers, and that a new body would have been best placed to develop an independent culture.

The only new power is to set deadlines when conducting investigations—that is in Clause 40. However, this is extremely limited, requiring consultation with the person on what deadline should be specified and limited to investigations only, not the collection of information for other functions, such as review. Yet this is the body intended to take on all passenger-related standard setting, monitoring and enforcement from the much stronger regulator, the ORR. Quite a lot needs to be done to make this situation anywhere near adequate.

My Amendment 188B would expand the power to request information for any of the council's functions, not only when an active investigation is under way. My Amendment 202A would require the council to publish any substantial written advice it gives under Clause 48, including the most important kind of advice given to Ministers, the ORR, GBR or operators, often regarding high-level issues of policy and for which there is currently no duty of transparency towards the public.

I am also in favour of Amendment 194 from the noble Lord, Lord Evans of Guisborough, which would require the council to publish its investigation reports. Currently the council has only an optional power to publish or even to prepare reports of its investigations. If the matter is referred by Ministers, the council must obtain their consent before publishing or disclosing that report.

I am so keen on this Bill going through, but some holes and gaps need to be closed. These amendments would cover some of them.

Lord Harper (Con): My Lords, I will make a couple of brief interventions. My noble friend Lord Evans's Amendment 183 seeks to set up clear purposes for the Passengers' Council. I am sure that the Minister will argue that, because the Passengers' Council—its operating name is Transport Focus—has been set up under statute and then amended by a number of other

[Lord Harper]
statutes, it has clear purposes to advocate for passengers. But there may be an argument for bringing it up to date, setting it all out and balancing those needs, because the remit of Transport Focus—or the Passengers' Council, depending on how we want to refer to it—is now quite broad; not only does it cover rail but it encompasses multimodal travel and roads. There is an argument for being clear about what we want it to do. That is the first point.

The second point is that I am afraid I cannot support Amendment 184A, which would remove the Passengers' Council's responsibilities to take into account costs and make efficient use of them. The reason why I cannot support it is that the council is given two important statutory roles in this legislation; one is on setting standards that have to be complied with and the other concerns improvement plans. I do not think you can have a body setting standards that have to be complied with by rail passenger services and station service providers since, because of other legislation, it would basically mean a body that is entirely funded by the taxpayer and improvement plans that effectively have to be delivered by a body funded by the taxpayer. I do not think that the Passengers' Council should be able to set such standards and improvement plans with no regard at all for how much those things will cost. If you do not need to have regard for cost you will specify a massively expensive gold-plated service, which might be lovely and we might all want to see, but the cost would be sufficient to drive people off the railways.

These things are always a balance. You have to look at the services that you want and the services that may be required by passengers, but you also have to look at the cost of providing them, and there is a balance there to be struck. Also, once you specify the cost, you also have to look at whether it is the fare payer or the taxpayer who is paying it, or a balance of the two. It is important that the Passengers' Council has to look at the cost of these things when exercising its statutory responsibilities.

That does not mean that the council cannot say, "Here are the standards, the improvement plans, all the things we want to see. We recognise that they are going to have a significant cost to them". There are some provisions in the legislation which require the Secretary of State to sign these things off, so it may be that there is a choice to be made and that there is a choice to improve the services at a significant cost, but the Passengers' Council cannot just make these decisions with no insight or thinking into how much the costs are going to be. That does not make any sense at all; in fact, it will likely be self-defeating, because it will drive up the cost of delivering rail services, which will actually price people off them.

My final point is on my noble friend Lord Moylan's Amendment 333A, which says that the Secretary of State would not be able to appoint a person as chairman of the Passengers' Council—not all the members but the chairman—without pre-appointment scrutiny by the Transport Committee of the House of Commons and that having been put forward to the Secretary of State. As with all these things, that does not mean that the Secretary of State cannot go ahead and make an appointment, even if the House of Commons Transport Committee says it is not a very good idea. It is always open to the Government not to take any notice of the committee and bear the political consequences, but the amendment says that it cannot make the appointment without that process having taken place. Given the importance of the role—given that, under this legislation, it will have some extra powers to make some significant recommendations—having pre-appointment scrutiny of the person who will lead the council seems a very sensible idea.

The amendment would not tie the Secretary of State's hands excessively. It does not say that they cannot appoint their preferred candidate, even if the House of Commons disagrees. It just says that there has to be a process. As a final point, something we found from the pre-appointment scrutiny processes that have already taken place, sometimes with Ministers following the recommendations and sometimes not, is that the transparency, the scrutiny and the ability for questioning to take place about the candidate's priorities—what it is they want to do with the job—is an unalloyed good thing. I do not see why Ministers would not be able either to support this amendment or, if they think there is something defective in my noble friend Lord Moylan's drafting, to bring back one of their own. This would be an important improvement to scrutiny in the operation of the Passengers' Council and I certainly give it my support.

Baroness Pidgeon (LD): My Lords, this group of amendments starts to look at the Passengers' Council, which we think is one of the stronger parts of the Bill. At the other end, we were keen to try to understand best practice in terms of complaints. We tabled a probing amendment to ensure that a complaint would go first to the operators—so mostly Great British Railways—before the Passengers' Council could intervene, which is generally seen as best practice. The Government responded, explaining that there may well be circumstances where the watchdog would need to investigate before or instead of operators, such as if the issue is systemic or cross-industry. We accepted that point, so we have not tabled any amendments in this area.

Clearly, the amendments before us are trying to tease out the powers of the Passengers' Council. I really want to understand, from the earlier group that I spoke to—some weeks ago now—how London TravelWatch fits within the Passengers' Council in all aspects of this work. On issues relating to the London TravelWatch area, which, as we heard, goes far beyond London, those passengers should have the same level of service, engagement and representation as those outside would with the Passengers' Council. We need to get some understanding of that. That might be something for discussion after Committee to make sure that London TravelWatch's role is equal and where it should be with the Passengers' Council to make sure that all passengers are strongly represented.

5.45 pm

Lord Reay (Con): My Lords, I thank all noble Lords who have spoken in this debate. If the Government are going to create a new Passengers' Council that is

funded with public money, value for money must be built into its operation from the outset. That is why we strongly support Amendment 186, which was tabled by my noble friend Lord Evans of Guisborough.

For the same reason, we cannot support Amendments 184A and 204C from the noble Baroness, Lady Jones of Moulsecoomb. These amendments would remove the cost-efficiency duties from the Passengers' Council and London TravelWatch respectively. If these bodies are spending taxpayers' money, we see no justification for removing an express requirement to consider the efficient use of those funds.

Other amendments in this group discuss the relationship between the Passengers' Council and the ORR. The Government repeatedly tell us that the ORR will remain a strong and robust independent regulator, yet, under Clause 42, when the Passengers' Council refers a contravention to the ORR, the regulator can simply report back on what action, if any, it proposes to take—including its reasons for taking no action. Amendments 191 to 193 in the name of my noble friend Lord Evans would give that relationship some bite by requiring the ORR to take action where a contravention has been referred to it by the statutory passenger watchdog. If the Passengers' Council has identified a genuine contravention that is serious enough to be referred to the regulator, why does the Bill expressly contemplate the supposedly robust regulator doing nothing?

Amendment 187 in the name of my noble friend Lord Evans would require the Secretary of State and GBR to respond within one month to representations from the council. Amendment 188 would require an annual assessment of passenger satisfaction. Amendments 194 and 195 would require investigation reports to be published and would impose a six-month deadline for publication.

The noble Baroness, Lady Jones, makes a reasonable transparency point in Amendment 202A, which would require substantive written advice from the council to be published, subject to a sensible public interest exception. One would hope that much of this is what the Government intend to do anyway.

Lastly, Amendment 333A in the name of my noble friend Lord Moylan concerns the appointment of the chair of the Passengers' Council. In February, the Transport Committee recommended that the preferred candidate should face a pre-appointment hearing specifically to reinforce the watchdog's independence from both the Secretary of State and GBR; it pointed to comparable arrangements for bodies including the Patient Safety Commissioner, the Housing Ombudsman and the Children's Commissioner. The Transport Committee already conducts pre-appointment scrutiny of the chairs of the ORR and the Civil Aviation Authority. I very much welcome, therefore, the Minister's decision, which was confirmed this week, to accept the committee's recommendation and pursue adding the chair of the Passengers' Council to the list of posts that are subject to pre-appointment scrutiny. Amendment 333A would simply put that safeguard into legislation. Given that the Government now accept the principle, I would be grateful if the Minister could explain whether she is prepared to accept the amendment; if so, how; and on what timetable the Government intend to give effect to their new commitment.

Baroness in Waiting/Government Whip (Baroness Dacres of Lewisham) (Lab): My Lords, before I turn to the amendments in this group, let me say a few words regarding the terminology. Transport Focus is the operating name of the Passengers' Council. Under this Bill, it will become the passenger watchdog, with strengthened powers to make it more effective as a champion for passengers. Although the amendments use the legal name of the Passengers' Council, I will refer to it as the passenger watchdog more or less throughout my remarks. Likewise, I will refer to the London Transport Users' Committee as London TravelWatch.

I would add that the passenger watchdog has an accessibility duty, which applies when setting standards, as this was brought up by the noble Baroness, Lady Jones of Moulsecoomb. The watchdog has a duty to make efficient use of public funds. The ORR and the Secretary of State also have to agree to the standards set by the watchdog and are bound by the Clause 18 duties, so this provides protection. The reason the watchdog is being given the standard-setting role is that the ORR is a regulator and, as such, must be fair, impartial and objective. We want the watchdog to be a genuine passenger champion and to advocate for its passengers in all things. This differs from the roles that the noble Baroness was requesting, but the roles are complementary.

Amendments 183A and 204B, tabled by the noble Baroness, Lady Jones of Moulsecoomb, concern a rights-based duty for the passenger watchdog and London TravelWatch. As the noble Baroness, Lady Pidgeon, mentioned London TravelWatch, I will confirm that it is given largely the same powers under the Bill as the passenger watchdog, except for in standards setting. It will also be consulted on the setting of standards. This is solely because the passenger watchdog will apply its standards across the network, whereas London TravelWatch's remit is for London, or as some have pointed out, one slightly bigger than London. We want to make sure we have an agreeable standard across all networks.

Lord Harper (Con): Before the Minister moves on, I know this will sound a bit picky but it is quite important, because it is about how the public will understand it. Can I check what the body referred to in the Bill as the Passengers' Council will actually be called? Its operating name at the moment is Transport Focus, because it has a remit that also covers the operation of the strategic road network. Ministers have referred in various documents that they have published to the "Passenger Watchdog", as the noble Baroness has, with a capital P and capital W. Will it be called that? For the public, it would be useful to know what it is called legally and whether those two things are different, so that there is some clarity. It is important for passengers to get their rights and to know which body they are supposed to be referring to. If it is complicated and difficult and people are not clear, that will reduce its effectiveness. There would be a real-world consequence for some lack of clarity.

Baroness Dacres of Lewisham (Lab): I thank the noble Lord for his comments. He makes a valid point, which is why I brought up the point regarding what the terminology is, because people have been calling things different things. At the moment, we are using "Passengers' Council" and TravelWatch. The intention is that it will become the passenger watchdog, because that would be all-encompassing. I would like to move on.

The drafting of the accessibility duty in the Bill ensures that disabled passengers' interests are actively considered, even where no specific legal right is engaged. Interests are broader than rights. We are creating a body that can monitor the outcomes seen by disabled passengers, set accessibility standards and advocate for improvements, whether they strictly relate to disability rights or not. We are doing this because we want the watchdog to ensure a high-standard and high-quality experience for disabled people throughout their journey. By contrast, these amendments risk narrowing the watchdog's scope for advocacy.

The watchdog's accessibility duty sits alongside wider protections. I remind noble Lords that GBR will be subject to the public sector equality duty, as provided for in Schedule 4 to the Bill. This will require GBR to proactively consider the rights of disabled people across everything it does. The watchdog's duty to consider the interests and needs of disabled people is complementary and additional to GBR's obligations, meaning that disabled people's rights, interests and needs are all enshrined in the Bill. I think we can all agree that that is how it should be. To go back to the point made by the noble Lord, Lord Harper, as the Bill progresses we will be able to settle on an exact name, but it is more important to know the objectives of the body going forwards.

On Amendment 183 in the name of the noble Lord, Lord Evans of Guisborough, the Government agree that the watchdog should be a strong and independent champion for passengers across the rail network. The principle is already at the heart of this Bill. The Bill establishes the watchdog with a broad statutory remit to represent passengers, review and investigate issues that affect them and advocate for improvements across the railway. The watchdog's functions already encompass all areas of passenger experience, including service quality and the accessibility of passenger services. For example, the watchdog is required to keep a watching brief on passenger matters and collect information related to passenger experience in Clause 37. For the benefit of the passenger, its investigation and standards-setting powers are similarly broad.

The Government have deliberately avoided prescribing a detailed hierarchy of passenger priorities in primary legislation. Passenger needs and expectations evolve over time. The watchdog must have the flexibility to focus its resources on the issues that matter most to passengers at any given moment. The amendment also risks narrowing the watchdog's focus to a specified list of issues, potentially limiting its ability to respond effectively to new and emerging concerns that are not expressly identified in the legislation. The watchdog's main purpose is to engage with passengers, monitor their issues and understand their experiences—

Lord Harper (Con): I raised what the watchdog is called because under the legislation, Transport Focus, under which name the Passengers' Council operates, also represents the users of England's road network, and is supposed to get the best deal for them as well. What the Minister seems to be saying is that it will evolve into a body that just represents passengers. Will it still have that responsibility to represent the users of the strategic road network? If so, one really cannot call it a passenger watchdog, as road users are not passengers in that sense of the word, particularly if they are driving themselves. Alternatively, will it only represent the passengers on rail, bus and tram services? They are very different organisations. I just want a clear answer. She may not have it with her now, in which case I am perfectly content if she writes to me and Members of the Committee, but I do think this is quite important.

Baroness Dacres of Lewisham (Lab): I thank the noble Lord for clarifying what he would like to know—initially he was asking about naming conventions, rather than actual duties. It may be best if I write to him in respect of that, but he has made that much clearer.

The watchdog's main purpose is to engage with passengers, monitor their issues and understand their experiences, so it will be best placed to determine where and how it needs to advocate for them. That is clear in every clause of these chapters of the Bill. For that reason, I do not believe it is necessary to place a statutory purpose of this kind proposed on the face of the Bill.

On Amendment 186, the watchdog's cost-efficiency duty in the Bill is consistent with the duties of the Secretary of State, the Office of Rail and Road, Scottish Ministers, Welsh Ministers and GBR. The revised duty proposed by noble Lords would achieve the same outcome as the existing duty. The watchdog will already need to undertake analysis to ensure it is making efficient use of funds when deciding which issues to investigate. This would naturally involve examination of the costs of an investigation comparative to the likely gains for passengers and the public. The amendment is therefore duplicative and unnecessary.

6 pm

Amendments 184A and 204C, tabled by the noble Baroness, Lady Jones of Moulsecoomb, would remove the duty to consider cost efficiency from both the passenger watchdog and London TravelWatch. I do not consider this to be appropriate. These bodies need to focus their resources on passenger priorities and act in a way that makes effective use of public funding. To be clear, we are suggesting that the watchdog should act efficiently, not that it should prioritise cost over passengers. I cannot understand why we would not want public bodies to act efficiently; of course, they must. I hope that the noble Baroness will not press her amendments.

I move on to Amendment 187 from the noble Lord, Lord Evans of Guisborough. Clause 37 requires the passenger watchdog to proactively monitor passenger issues and maintain a good overview of any problems

with passenger and station services. It can then use this information to make representations to the Secretary of State and GBR to advocate for passenger improvements. However, some issues may be complex, requiring careful consideration of funding implications and wider priorities for the railway. A statutory deadline, such as the one in this amendment, risks prioritising speed over substance and may not lead to the best outcomes for passengers. The result of this amendment would likely be to bring about problems that cannot be solved quickly, or would never be solved at all. Of course, representations should still be considered and responded to as promptly as possible. I can assure the noble Lord, Lord Evans, that we are working with Transport Focus and the ORR to ensure that that will happen.

I speak next to Amendment 188, also from the noble Lord, Lord Evans. Assessing passenger satisfaction is a well-established part of the work of Transport Focus and will remain so once it becomes the passenger watchdog. The Rail Customer Experience Survey already provides regular, robust and consistent insight into passengers' experiences across the railway. Transport Focus currently has access to the underlying data and conducts its own independent analysis, publishing regular assessments of passenger experience, which fulfil the reporting proposal in this amendment. The passenger watchdog will continue this work once established, but the Bill also gives the watchdog oversight of passenger complaints and powers to increase its passenger insight further, which will increase the usefulness of these reports. The Bill therefore goes a good deal further than proposed in the amendment.

With regard to Amendments 194 and 195, the watchdog will routinely publish reports of its investigations within a reasonable timeframe. However, it is also important that it retains some discretion. The watchdog's investigations may uncover issues that need to be kept confidential—for instance, commercially or personally sensitive issues—and require careful handling. That is why the Bill provides for the watchdog to publish its investigations but gives it some discretion about how and when it does so. I agree that investigations should be published promptly; however, some investigations will naturally be more complex and time-consuming than others. In some cases, reports may benefit from being shared in draft, with time allowed for those impacted to consider improvements and suggestions. The watchdog should be able to determine when and how publication best serves passengers.

Amendment 202A, from the noble Baroness, Lady Jones of Moulsecoomb, would commit the passenger watchdog to publishing all its advice to the Government, operators and other bodies. The watchdog will be transparent about its advice and representations on behalf of passengers. None the less, a statutory obligation automatically to publish all its advice is not appropriate. This could make some bodies cautious about consulting the watchdog about early ideas and proposals, and might not deliver the best outcome for passengers.

Moving on to Amendment 188B, Amendments 189 to 193 and Amendment 201A, the Government's view is that there should be one independent enforcement body for the rail sector, the ORR. The passenger watchdog will have significant powers to investigate issues, to require information from GBR to a deadline, to set mandatory standards for operators in their licence and to demand improvement plans from operators. Amendment 188B seeks to amend the watchdog's powers to obtain information during investigations. However, in practice it replicates the broader information-gathering powers the watchdog has in the Bill already under Clause 37(2), and is therefore unnecessary.

Contrary to Amendment 189 from the noble Lord, Lord Evans, it is important that enforcement decisions remain within the ORR as the independent regulator. Having a single enforcement body for the sector avoids duplication, conflicting decisions and uncertainty for industry. This also provides consistent and fair oversight for all operators. That is why the ORR will enforce against GBR and other licence holders. To assure noble Lords further, we intend to consult on the GBR licensing later in the year and expect our proposals to include a licence condition requiring operators to co-operate with the passenger watchdog. This will ensure that licensed operators co-operate with requests from the watchdog.

The Bill has also been drafted so that concerns identified by the watchdog can often be addressed through constructive engagement and improvement plans before formal regulatory action becomes necessary. In many cases, that is likely to deliver faster and better outcomes for passengers than immediately escalating every issue to enforcement proceedings as required by Amendments 190 to 193. The Bill also already contains safeguards to provide transparency on enforcement decisions sought by these amendments. Where the ORR receives an enforcement referral, it must explain to the Secretary of State and the passenger watchdog what action it has taken or why it has decided that a different approach to enforcement action is appropriate.

Regarding Amendment 201A, we expect the watchdog to work closely with the ORR as compliance issues are identified and as the watchdog takes steps such as requesting improvement plans from operators. A memorandum of understanding is being developed between ORR and the watchdog and will cover how referrals for enforcement actions are to be dealt with. A head of terms document for the MoU was published in June, with the final MoU to be published after Royal Assent. I therefore do not feel the need to do anything further on referrals for enforcement actions in this Bill.

As the noble Lord, Lord Moylan, highlights with Amendment 333A, the Transport Select Committee has recommended that the chair of the future passenger watchdog be added to the list of appointments subject to pre-appointment scrutiny. The Government agree that the future passenger watchdog must command confidence and be seen to represent passenger interests. The Government have considered the recommendations of the Transport Select Committee and the noble Lord, Lord Hendy, has written to confirm that he intends to follow this through with approval from the Cabinet Office.

These amendments raise important questions about how best to champion passengers' interests. I hope we have covered all the points sufficiently and that noble Lords will not press their amendments.

Lord Evans of Guisborough (Con): My Lords, I thank everyone for taking part in this debate, which has highlighted a number of shortcomings in the legislation, which we will probably return to in future. I should perhaps complete the tale I was telling about the London Transport Users' Committee, because I realised that I did not complete it when I spoke last time. It is a discourtesy to leave noble Lords in suspense, and it contains a number of lessons which might be useful for the Minister and the Committee.

Our recommendation for the London Transport Users' Committee was to reduce the size of the considerably. In the course of doing that, we found that we needed a new chair. The Assembly appointed a man called Brian Cooke, who some people here will remember. One of the first things that he did was to change the name of the London Transport Users' Committee to London TravelWatch. The Committee may be interested to know that that is the origin of those two different names. The reason he chose London TravelWatch was that it reflected the responsibility of that body for road users as well as public transport users. Therefore, he very much had in mind the concerns that my noble friend Lord Harper has raised. Perhaps that is something that could be looked at by the chair of the transport watchdog when they are appointed.

The second lesson from this is that the chair of London TravelWatch was appointed by a committee of the London Assembly, the scrutiny body, rather than directly by the mayor. My noble friend Lord Moylan's amendment asks merely for a confirmation hearing in front of the Transport Committee, not for full appointment. It is an amendment well worth considering and supporting. I very much agreed with the Minister and my noble friend Lord Harper in their support for value for money being a part of the terms of reference here—and, I should add, the noble Baroness. If the organisation wishes to be treated seriously within the industry, it needs to make recommendations that are financially viable; otherwise, it will start to look like any of the other campaigning organisations that we see, which make recommendations which are perhaps less viable.

The noble Baroness, Lady Jones, asked me about the pronunciation of the town in my title. I am just going to let everyone know what the correct pronunciation is—not least because I have six more amendments in the next section, and I think we can probably do without three different pronunciations. It is in fact "Gis-borough": the "u" is silent. I have heard all three pronunciations in other places. I hope that is helpful to the Committee.

The debate has exposed a number of shortcomings in the legislation, which we will return to on Report. Meanwhile, I beg leave to withdraw Amendment 183.

Amendment 183 withdrawn.

Clause 36: General duties of the Council

Amendment 183A not moved.

Amendment 184 had been withdrawn from the Marshalled List.

Amendments 184A to 186A not moved.

Clause 36 agreed.

Clause 37: Keeping matters under review and collecting information

Amendments 187 and 188 not moved.

Clause 37 agreed.

Clause 38 agreed.

Amendment 188A

Moved by ***Lord Moylan***

188A: After Clause 38, insert the following new Clause—

"Passengers' Council board

(1) The Secretary of State must appoint a board of the Passengers' Council.

(2) The persons appointed to the board by the Secretary of State must include a minimum of two disabled persons."

Member's explanatory statement

This amendment would ensure representation of disabled people on the board of the Passengers' Council.

Lord Moylan (Con): My Lords, I rise to speak to Amendment 188A in my name. This is not the first time in the afternoon that reference has been made to the Transport Select Committee in the other place. This amendment too was inspired by its deliberations as it sat in consideration of the issues in the Bill.

6.15 pm

This issue was raised directly in evidence: Transport for All told the committee that lived experience of disability needed to have "a formal role" within the new passenger watchdog and argued for a statutory requirement for disabled representation on the council. The committee subsequently concluded that the Bill needed to give its accessibility duties greater teeth and recommended that the Passengers' Council should exercise its functions in a way that improved accessibility across the network. The Minister previously said that the current Transport Focus board already includes members with experience of accessibility issues and that the Government expect that representation to continue. If that is the Government's expectation anyway, I struggle to understand the objection to putting a reasonable minimum guarantee in the Bill. I hope the Minister will look favourably on my amendment, which would require two places on the council to be reserved for people with that experience.

That brings me to the important amendments from the noble Baronesses, Lady Grey-Thompson and Lady Brinton. Amendment 198A addresses some of the very practical problems that disabled passengers continue to face, in particular the provision of passenger assistance during disruption. Amendment 200 similarly probes the availability of sufficiently trained staff at stations to assist disabled passengers.

I also think that Amendment 204, tabled by my noble friend Lord Holmes of Richmond, makes an entirely reasonable proposal. Where the Passengers' Council identifies

"a systematic failure to provide accessible services or infrastructure",

it would be able to issue an "accessibility improvement notice" requiring GBR to rectify that failure within a specified period. That seems entirely consistent with the Government's stated ambition to create a passenger watchdog with real influence. The difficulty is that one is not entirely convinced that the Government do intend to create a Passengers' Council with real influence.

I turn finally to Amendments 198, 199, 201, 202 and 203, tabled by my noble friend Lord Evans of Guisborough, to which I have added my name. Amendment 198 would require standards to cover things which passengers actually experience every day: reliability and cancellations; safety and security; cleanliness, overcrowding and facilities onboard; and affordability and value for money. These are the issues that really matter to passengers. If the Passengers' Council is intended to be their champion, why should these matters not be clearly stated in the Bill?

Amendment 199 concerns the requirement for the council to obtain the ORR's consent before setting, revoking or varying standards. If the Government trust the council to represent passengers, why does another organisation need a veto over the standards it sets?

On Amendments 201 and 202, under the Bill, the Passengers' Council can identify a contravention, demand an improvement plan and, ultimately, refer matters to the ORR, but cannot itself enforce such improvement plans. The Government say that they are creating a powerful passenger watchdog but, without enforcement powers, there is a risk of creating a watchdog with no teeth. The Government's answer in the other place to this was that there should be one clear enforcement body. Indeed, at the end of the previous debate, that was the message broadcast by the noble Baroness, Lady Dacres of Lewisham. But why should there be one clear enforcement body? Who actually benefits from that?

Having one clear enforcement body simply makes what might be called regulatory capture more attractive to Great British Railways. What is the drawback in having two enforcement bodies? After all, other bodies outside the architecture of the Bill can enforce their decisions on Great British Railways. The police are one of them and another is the courts. If a decision in the courts went against Great British Railways, I would expect Great British Railways to comply with it and there would be mechanisms for enforcing it. So, in the broader architecture of society, Great British Railways is subject not to one enforcement body but to a number. Why should the Passengers' Council, with its particular remit, not have those enforcement powers if the Government mean it to be a serious body? I beg to move.

Baroness Jones of Moulsecoomb (GP): My Lords, I have a few amendments in this group. I strongly oppose Clause 46 because it is a central part of how the Bill deregulates passenger-related and accessibility-related duties, moving all responsibility away from the much stronger regulator, the ORR, to the weak Passengers' Council, which, as previously discussed, is little more than the existing Transport Focus.

The first issue is the way this works within the internal mechanics of the Bill. It is complicated but vital that this two-step deregulation is spelled out on the record. First, all forms of licensing are deregulated because they no longer need to have regard to the general duties. Secondly, the role of standard setting is moved away from the ORR to the Passengers' Council, which is not subject to the general duties. Clearly, this severs all links between the general duties and the standard setting.

The ORR is the much stronger regulator, so there is a significant safety dimension here too, especially when it comes to accessibility, which has many crucial links to safety and operations. The ORR has years of institutional knowledge and a much superior perspective on how this system fits together, so even if it could be justified to move consumer rights and passenger standards-related issues away from the ORR to the council, it could never be justified to sever this link between accessibility and rail operations. If anything, accessibility needs to be treated with the same seriousness as safety from a regulatory perspective.

The same point about safety should be made even more strongly about monitoring and enforcement. Under current legislation, serious issues such as licence breaches are dealt with by the ORR, meaning that they get the oversight of the regulator most expert in safety and operations. According to the Bill, such issues can now be dealt with by the council alone, a body with a much weaker negotiating position, under an overarching duty of cost efficiency. It is much less knowledgeable about how the operational aspects of the railway fit together.

The watchdog's only recourse, where an operator fails to comply, would be to refer the matter to the ORR, without any standards or timescales for this referral. This creates scope for operators to delay, obstruct or exploit a non-enforcement stage before the ORR can become involved, potentially more than doubling the timescales and meaning that later enforcement action would take place according to much weaker standards. For these reasons, Amendment 190 from the noble Lord, Lord Evans of Guisborough, is important because it would make sure that referrals were always made to the ORR. His Amendments 191 and 192 would require that the ORR always acts on these referrals.

On my Amendments 201A and 202B, Amendment 201A would add to this approach with a backstop to ensure that any serious issues or licence breaches relating to rail operations, safety or accessibility are always directly referred to the ORR and never diverted down the much weaker route of the Passengers' Council. Amendment 202B addresses the main weakness in Clause 49, in which GBR must consult the Passengers' Council when it "appears" to GBR that the changes

"will significantly affect the interests of the public".

This is clearly a subjective standard. This amendment would make it an objective standard when the change would reasonably be expected to have a significant effect.

On that note, I am strongly in favour of Amendment 209 from the noble Baroness, Lady Pidgeon, the wording of which also would remove this subjective standard

[Baroness Jones of Moulsecoomb]
while ensuring that the London Transport Users' Committee is also a statutory consultee when it comes to services operating within the London area.

Amendment 330JA concerns the Disabled Persons Transport Advisory Committee. This is a very credible and active statutory body, which is an adviser to the Secretary of State on rail policy matters. As I understand it, it was previously thought that DPTAC's role in rail policy would be expanded to GBR. This was included in the Conservatives' draft rail reform Bill in 2014—so they did something right, I suppose. The alternative would be greatly to reduce its statutory role in policy, since most decisions relating to rail policy and operations and many of the strategy functions currently held by the DfT will move to GBR. Hence, my Amendment 330JA would amend the Transport Act 1985, which originally established the role of DPTAC. It mirrors exactly the amendment in the Conservatives' draft Bill. Considering the Bill has no requirement for disability-related advice or the participation of disabled people, extending the role of DPTAC is really the minimum that should be done. The committee already exists and is well thought of, so extending its statutory role in this way would involve minimal cost and change. If any explanation exists to justify this deregulation, I would really like to hear it.

In the previous group, I mentioned my Amendment 204A, which I should not have done; I am sorry about that. It is a crucial amendment solving another major issue with the Passengers' Council: the fact that there is no link to real-life passengers whatever. Public engagement and consultation is not only necessary for fairness and openness with the public and disabled people; it is also one of the most valuable possible forms of input for the benefit of the council itself. Passengers and campaigners are crying out for a proper system of engagement, and this would finally establish a much-needed link with what passengers are actually experiencing and their priorities for change. With all due respect to the noble Lord, Lord Hendy, who is more expert than the people using the network every day?

The amendment would introduce a new clause that would require the Passengers' Council: to establish arrangements for the input of passengers; ensure that they can contribute to its work programmes and priorities; ensure that they can input on national policies; ensure they can receive transparent information about its activities and the outcomes of its work; and prioritise arrangements for engagement with disabled people and their organisations, as well as other groups protected under the Equality Act 2010. I would like a fair world, and what I am trying to do with my amendments is to create a fair Bill.

Baroness Brinton (LD): My Lords, I have Amendment 200 in this group—also signed by the noble Baroness, Lady Grey-Thompson, and my noble friend Lady Pidgeon—which is a probing amendment to try and provide a mechanism to ensure that disabled passengers are not left stuck on a platform—or, worse, a train—because there are insufficient staff to assist disabled passengers on and off trains and, on some occasions, to help them get on and off the station too. I will give more detail on that in the next group, but that is where this amendment comes from. The amendment also mentions access to ticketing information and other facilities, especially accessible toilets. It specifically identifies the monitoring of compliance with the service for disabled people with the Passengers' Council, which is why it is in this group.

I thank the noble Baroness, Lady Jones of Moulsecoomb, for recognising that putting accessibility on the same footing as safety is really important. I am interested in her Amendment 330JA, which would make DPTAC an official adviser to the Passengers' Council. I know that the noble Baroness, Lady Grey-Thompson, the noble Lord, Lord Holmes, and I talk about co-production frequently, but co-production with disabled people before policy is formulated is vital.

Someone who has never had to rely on the services for people with reduced mobility—known in the trade as PRM—will often not understand how precarious travel can be for a disabled person. The noble Baroness, Lady Grey-Thompson, and I have recounted our own experiences in debates on this and other Bills. The easiest way to describe what it is like to be on the receiving end of an assist that goes wrong because of a failure of staff either on the platform or on the train is that, first, you lose all your independence. Secondly, you have to try to find someone to help you; people may not know what to do or, worse, just will not.

6.30 pm

I live in Watford and the train from Euston to Watford Junction is often full of visitors to the Warner Bros studios. It has transformed my hometown, which is lovely, but many of the visitors do not speak English. I can be sitting with the doors open but about to close and no sign of any staff member with a ramp wondering whether I am going to get off at Hemel Hempstead, or possibly even Milton Keynes, because I cannot even find the police easily to let them know that I am stuck on the train. The problem is that staffing can be patchy. That is a real issue. Some stations no longer have any staff at all, and some larger stations end up without their full complement of staff. Frankly, that is often when things start to go wrong.

I want to emphasise that, for me, this is rare. When we move on to the next group, I will talk about the percentage of assistance that works, which is really important. I thank the thousands of staff across every station and every train who give a smooth and friendly service to disabled people, enabling us to get from A to B. That is not what this amendment is about; this amendment would ensure that, when planning for staffing, assistance needs are taken into account.

I have been left on a train twice at King's Cross around midnight on a Sunday, when staff have dashed off and there were no accessibility staff left on the station. There was no answer on the King's Cross or assistance numbers. What do you do then? Do you call 111? Possibly.

Baroness Jones of Moulsecoomb (GP): Call the noble Lord, Lord Hendy.

Baroness Brinton (LD): The noble Baroness, Lady Jones, gets ahead of me. I have an answer to this.

Lord Holmes of Richmond (Con): Call a Paralympian.

Baroness Brinton (LD): Call a Paralympian is the answer.

Actually, I tweeted, "What do I do now?" By this time, it was about half past midnight. It is an interesting question, but the answer is that you need the noble Baroness, Lady Grey-Thompson, who reads her Twitter at half past midnight on a Sunday. She knew the CEO of LNER, so she rang him—poor man—and he called someone. He found someone, but I could not have seen them from the train. In the half an hour before that happened, I wondered how long it would be before the cleaners arrived for the early shift or the train driver arrived to take the train out. I literally did not know what I could do.

Nowadays, on some lines, there are never any conductors on the train or staff at the station. If they do not have level boarding access either, it means that wheelchair users are reliant—believe it or not—on staff travelling from other stations when they are free to do so. This can cause delays. There was a by-election nearly a decade ago in Lewisham and I travelled down a few times to help out. There is an accessible toilet at Lewisham station, which is wonderful, but the door is locked. It is not even locked with the standard RADAR key, because it had apparently been used for people to trade in drugs. But there are no staff. So, if you either need to get hold of the key to use the toilet while waiting for a train, or you want staff to put you on a train, you have to call Hither Green station, which finds the staff manager, who finds who might be the next member of staff who could possibly jump on the next train to go from Hither Green to Lewisham. Then they will put the ramp down for you and off you go, in my case, back towards Charing Cross. That is not a turn-up-and-go service. It is not even a booked service. It just ruins your working life. I could never live near that station, because I would never know when I could get to and from work.

I also signed Amendment 204 from the noble Lord, Lord Holmes of Richmond, which sets out the need for an accessibility improvement notice where there are systemic failures to deliver good PRM service. I have not talked about that in my amendment; I have talked about minimum staffing also being a deal breaker, but I support his amendment completely.

I admire this Government, and specifically the noble Lord, Lord Hendy, for having strong aspirations for Great British Railways to offer an excellent service to all passengers. Passengers who need assistance should also be considered at all times. I therefore ask the Minister: if she wants to resist this amendment, what guarantees can be given to ensure that when staffing is considered, at whatever level that will happen under Great British Railways, the service for passengers who need assistance will be part of the calculation and that the Passengers' Council should monitor that performance? I look forward to hearing the Minister's response.

Lord Holmes of Richmond (Con): My Lords, I speak to Amendment 204 in my name. I thank the noble Baroness, Lady Brinton, for signing it—we will come to that. It is a pleasure to follow her. Could there be a greater, clearer and more unarguable case that lived experience is invaluable and vital and should be in every decision, committee and consultation and set out in every Bill? Nothing about us without us. The noble Baronesses, Lady Brinton and Lady Grey-Thompson, bring their experiences to bear and they need no garnish. The case is clear: we do not have accessibility, and we certainly have nothing that gets anywhere near even the first letter of the word "inclusion".

I also thank the noble Baroness, Lady Jones of Moulsecoomb, for all her continuing work on disability, access and inclusion over many years; it is unstinting, clear and committed. What she said about safety, accessibility and disability is critical, not least because safety and accessibility should have equal standing but also because, all too often, even in 21st-century Britain, health and safety can still be used as a reason not to do disability, if you will. It is unacceptable, but it still occurs.

Amendment 204 talks about accessibility improvement notices where systemic accessibility failures occur. We are talking about the infrastructure and the kit. We are looking at this through the lens of the experience of disabled passengers—or, one might say, those who would really like to be disabled passengers, if only they had a chance to get on the transport. There has to be an ability to make change through this Bill in the form of improvement notices so that things do not just continue and do not just get reported on. We hear that lessons will be learned and change will happen; well, let us have improvement notices to not just suggest but ensure that change occurs.

All too often, travel by train for disabled people is not a luxury, it is a necessity: for leisure, pleasure, appointments and, critically, work. There is more than a correlation—all too often, there is causation—between the employment levels of disabled people and the accessibility of public transport. Tragically, in this country we still do not have public transport; we have transport which is accessible to some of the public some of the time. Public transport must be accessible by all, inclusive by design.

To give a measure of the distance we have to travel, the employment rate for non-disabled people in the UK is 83%; for disabled people, it is 41%. For those of us who are blind or partially sighted, it is 27%. Almost three-quarters of blind and partially sighted people of working age are not in work. Inaccessible public transport is part of that problem, and this Bill needs to be part of the solution. I look forward to the Minister's response.

Lord Evans of Guisborough (Con): My Lords, I speak briefly to the amendments that I have tabled in this group. I will not say a great deal, because my noble friend Lord Moylan has explained the purposes of the amendments very clearly, and the noble Baroness, Lady Jones of Moulsecoomb, points very clearly when it comes to the independence and the strength that we want the passenger watchdog to have.

I want to say something in support of the noble Baroness, Lady Brinton, on disabled access, because she brings to us some valuable experience of her own here. I think it is worth the Committee being aware that it is not just a problem on the worst railway lines

[Lord Evans of Guisborough]
but potentially a problem everywhere. I regularly use the Elizabeth line, which is excellent. Most of the stations are accessible for people with disabilities, and all of them have lifts. At most of the stations, the gap between the train and the platform is taken care of, except on the branch which leads out to Shenfield, because that is a place where the platforms are historically lower.

TfL staff are normally in place to help passengers in wheelchairs off the trains. I was on the service a couple of weeks ago when they were not there; a passenger in a wheelchair was effectively trapped aboard the train at Romford and would have gone to Shenfield at the end of the line but for the very quick thinking of another passenger, who pulled the emergency handle and made the train stop at the station until a member of staff came up and provided the ramp. That of course was an entirely justifiable thing to do, but it delayed the train for everyone else and impacted services on the rest of the line. Disabled access is not just important for disabled people but for everybody.

I know how the noble Lord, Lord Hendy, took this incredibly seriously when he was the Transport for London commissioner. Buses that did not have disabled access ramps working were not allowed out of the depot to provide the service if they could not demonstrate that they had that facility. I suspect that, if the noble Lord travels on London Underground these days, he must be disappointed—indeed, embarrassed—to see the state in which some of our Underground trains are allowed out of the depot.

I very much support the amendments in the name of the noble Baroness, Lady Brinton, and I hope that the Committee will consider supporting mine.

Lord Berkeley (Lab): My Lords, I speak very briefly in support of all the speakers who moved these amendments and talked about the problems of accessibility, perhaps led by the noble Baroness, Lady Brinton. It has been an eye-opener because we are trying to adapt a Victorian railway—or much of it is Victorian, apart from the Elizabeth line, as the noble Lord just said—to what we want, expect or aim to get.

When I go to my little station in Cornwall, there are so many people who cannot lift their luggage over the bridge. Are they going to build a footbridge? Well, they may do sometime. The last time I heard somebody ask for a lift over the bridge, the person in the booking office—there was somebody there—said, "I can't do it because I've got a bad back", which is fair enough.

The problem we have is that there are many footbridges and other things which need to have lifts added or whatever, but we also have to make sure that what we have works. As many noble Lords have said, you can go to a toilet in a station and find it is out of order, or the train can get cancelled—there have been many of those occasions recently. Generally, I worry about uncertainty, because putting it right, and getting the right number of staff in these different places, as well as improving the infrastructure, such as bridges or whatever they want, is something that we should be doing, but it will cost the taxpayer a lot of money. That is fair enough, because it needs doing, but we cannot always have our cake and eat it.

I hope we can go on and continue to improve services and the availability of staff, which, as noble Lords have said, is absolutely fundamental, and give some certainty to those who need help during the journey. In the meantime, let us have a few more footbridges as well.

6.45 pm

Lord Fuller (Con): My Lords, I will speak briefly in support of Amendment 198 in the names of my noble friends Lord Evans and Lord Moylan. It is said that third-class riding is better than first-class walking, but that should not be an excuse for poor service. The four examples in Clause 46(2) of the Bill can be viewed through the lens of the convenience of the state and the operator, and the effective administration of the ticketing and the transaction. It is incomplete. Competition as a device should be used to improve service, but instead this Bill provides for the dead hand of the state and the provision of a monopoly operator in this nation, and that is to be regretted. I particularly regret that it could see the end of the Grand Central service from King's Cross to Sunderland, one I use frequently; it is direct, much better value and quicker. It is all to be swept away, and it is a shame that this Railways Bill takes us backwards in the terms of service.

I welcome the focus provided by the additional three paragraphs proposed in Amendment 198, which bring service for passenger experience and comfort. Unlike than the Bill, which is laid through the lens of the operator, my noble friends Lord Evans and Lord Moylan bring their amendment through the lens of the customer. Comfort, a lack of overcrowding, the speed of the internet and the cleanliness of the toilets really improve the experience—the provision of a first-class service, not a third-class one. The things laid out in paragraph (g) of the amendment should absolutely be within scope. I hope that the members of the ministerial team will adopt them, because if they want to be seen on the side of the passengers who pay the fares rather than for the administrative convenience of the state, they need to be seen to be on the side of all of us—the people who pay the fares, not just the Government. I commend this amendment to all noble Lords.

Lord Harper (Con): My Lords, I will speak to four amendments in this group. The first is Amendment 188A in the name of my noble friend Lord Moylan; I can be very brief on this one. It makes the point very clearly that at least some members of the passengers' council should have lived experience of being disabled. Both my noble friend Lord Holmes and the noble Baroness, Lady Brinton, set out very powerfully why that is important; I do not think I can put the case better than they did, but I strongly support that.

Secondly, I support the principle behind Amendment 200, which is about minimum staffing. The amendment, as drafted, very sensibly sets out the things you want the staff to do. It was one of the ideas—I regret this did not happen in the end—behind the proposal to get staff out of ticket offices and into the station, partly to assist disabled passengers and those who require more support to make their journeys, rather than sitting in a ticket office. In many stations, very few people purchase

paper tickets any more; the vast majority of tickets are purchased online. For a railway that has staff but not infinite resources, I want the staff to be deployed in the best way that they can to serve customers. The noble Baroness's amendment, which sets out that there are some services that need to be delivered at a station, is sensible; it would leave the service provider the flexibility to work out where the staff need to go to deliver those services, rather than prescribing where they sit and what job they do. It is therefore worthy of support.

Baroness Brinton (LD): If the noble Baroness, Lady Grey-Thompson, were in her place, she would immediately say—and I would agree with her—that one of the problems of removing staff from ticket offices is that any disabled person with a disabled travel card cannot buy their ticket at a machine. Therefore, removing the member of staff would cost disabled people more to travel.

Lord Harper (Con): I take the noble Baroness's point, but my point was not about removing the ability of staff to sell tickets; it was to enable them to be more flexibly deployed. For example, one of the things that staff would have been able to do is exactly that transaction—but they would not have had to sit in a specific place, unable to interact with passengers.

I absolutely accept the noble Baroness's point that some people still either prefer to—that is their absolute right—or have to, in the cases that she set out, purchase a physical ticket, and we should make sure that they are able to do so. But, in many stations, you literally have staff who sit there for an entire shift, interacting with almost nobody. Frankly, that is not a very good job either—it is not a satisfying job—and they could be better deployed. The noble Baroness's amendment sets out how you could better deploy staff to serve disabled passengers in particular, and it is therefore worthy of support.

Amendment 204 in the names of my noble friend Lord Holmes and the noble Baroness, Lady Brinton, is about accessibility improvement notices. I am not sure whether that is the correct solution, but I support the thrust of the amendment. I have sat in a number of debates, both on this Bill and on other occasions, where I have completely seen the frustration that lots of things are set out as objectives but they do not happen in practice. The real challenge, not just for passengers but for Ministers and operators, is: how do you make sure that the things that are required and that are the responsibilities of these operators are actually delivered in practice? Lots of these things are delivered in theory, but as both of my noble friends—I think I can call the noble Baroness, Lady Brinton, one of my noble friends on this occasion—set out, they do not always happen in practice. Getting them fixed should not depend on the noble Baroness, Lady Grey-Thompson, having the telephone number of the person in charge of an operator; that is a very effective solution, but it should not be the way that we make sure these services are delivered. So where the passengers' council finds that there is a systematic failure—not just a failure in a specific circumstance but a systematic failure, where there are not the staffing, policies or processes to deliver this—being able to direct that something happens as a result is valuable.

The excellent Amendment 330JA from the noble Baroness, Lady Jones of Moulsecoomb, is one of those relatively rare occasions where I cannot fail to agree with her, since it broadly replicates what was in the draft rail reform Bill, which I was responsible for. It does not go as far as our draft Bill, but it would do half of it. It would do one very important thing: as she said, it would make the Disabled Persons Transport Advisory Committee not just a statutory adviser to the Secretary of State. I say in passing that I found its work extremely helpful, both its direct advice and the work that it and its chair did in the department in ensuring that parts of the department were listening properly to the experience of disabled people and reflecting that in the policy and operations of the department.

The noble Baroness's amendment would make the Disabled Persons Transport Advisory Committee an advisor to GBR as well as the Secretary of State. I thought that was clearly the right thing to do, and it was in the draft legislation for which I was responsible. I think it is the right decision; given that it was in that draft legislation, I am interested to know why someone has, effectively, decided to take it out, thinking it was not helpful. I remind Ministers that having the committee provide advice to GBR would be helpful not only to GBR in ensuring it delivers a better service for disabled people but to Ministers to stop them from, in effect, being a conduit. What happens now is that advice will be provided by the transport advisory committee to Ministers, who will then have to issue directions to GBR. It would be much better if the transport advisory committee advised GBR directly.

The second thing, which is not in the amendment from the noble Baroness, Lady Jones, is that the draft Bill that I was responsible for contained collaborative enforcement. It specifically gave the Disabled Persons Transport Advisory Committee the ability to work alongside the passenger watchdog to safeguard the rights and interests of disabled rail passengers and directly influence GBR's licensing agreement and accessibility standards. It would perhaps have been an alternative mechanism to the amendment put forward by my noble friend Lord Holmes and the noble Baroness, Lady Brinton, or perhaps an adjunct to it. It would have meant that the Disabled Persons Transport Advisory Committee could have taken evidence and listened to some first-hand testimony from disabled passengers who had poor experiences, and they would have had a direct role in working with the passenger watchdog—Transport Focus—on GBR's licensing conditions. That would have been very helpful. Again, I would like to hear why Ministers decided to take that aspect of the draft legislation out as well. I look forward to hearing the Minister's reply.

Baroness Pidgeon (LD): My Lords, many amendments in this group are trying to tease out the different responsibilities of the ORR versus the Passengers' Council, and what should sit where. I endorse my noble friend Lady Brinton's probing amendment, to which I have added my name, which she set out so

[Baroness Pidgeon]
clearly and passionately, giving real examples of why staff are needed so that disabled passengers can have the same service that we all expect. We all expect to be able to turn up, get on a train and travel somewhere, and so should disabled passengers. It is important that we hear that as we consider this legislation.

Amendment 204, in the name of the noble Lord, Lord Holmes of Richmond, which is also signed by my noble friend, would require an accessibility improvement notice to be issued by the Passengers' Council in response to systemic failure in accessible services or infrastructure. This is a really interesting proposal; it would certainly focus minds and efforts. Amendment 188A from the noble Lord, Lord Moylan, which is also supported by the Transport Select Committee, is one we should support so that we have two board members who are disabled people, with lived experience which they can bring. Of course, the board must be representative of different types of passengers to ensure breadth of thought. I would have thought that any Secretary of State would want to ensure that the board is diverse.

Amendment 330JA, from the noble Baroness, Lady Jones, proposes that DPTAC advises Great British Railways as well as the Secretary of State. Obviously, we have lots of former Secretaries of State in the room as we debate this legislation; it has been interesting to hear about draft legislation, what was in that and what has not materialised. That will be interesting to hear from the Minister. To clarify, Amendment 209 in my name was mentioned earlier but was debated in an earlier group on London TravelWatch, which is why it is not in this group now. I look forward to hearing from the Minister on these points.

Baroness Dacres of Lewisham (Lab): My Lords, these amendments concern the passenger watchdog's role in setting standards and improving accessibility outcomes for passengers.

I will begin with the notice that the noble Baroness, Lady Jones of Moulsecoomb, intends to oppose Clause 46 standing part of the Bill. As set out in the previous group, the ORR will remain the sector's independent enforcement body but the watchdog will take on an important responsibility for setting and monitoring minimum consumer standards. These standards will be included as mandatory licence conditions for all operators, including GBR, and the ORR will enforce them.

7 pm

The clause also sets out what the standards may cover, including, for example, passenger assistance, provision of travel information, the process for compensation if services are delayed or disrupted, and complaints about passenger services. This is not an exhaustive list, just an indicative one. The watchdog can set standards across any aspect of passenger experience. The watchdog must seek the Secretary of State's and the ORR's consent before setting new standards or varying or revoking existing ones. The standards and any variations must be published and the watchdog must monitor how operators are complying with them.

Consumer standards in operator licences are currently set and monitored by the ORR. We want the watchdog to take over this function to ensure that most consumer functions sit in one body—our passenger champion—which can monitor the outcomes that passengers are seeing and use this intelligence to drive up standards, advocate for improvements for passengers and hold operators accountable in a meaningful way. To be clear, we are creating a body that is able to see the real-life experiences of passengers and translate this into real action to ensure that operators make improvements where needed. The ability to set standards is a key part of that.

The drafting of Clause 46 allows the watchdog to develop standards covering all areas of passenger experience. As I said, the list in subsection (2) is not exhaustive and does not prevent additional standards relating to passenger experience being developed in the future. Therefore, Amendment 198 would make no practical difference to the watchdog's powers.

Our proposal is for the passenger watchdog to focus on passenger experience, whereas some of the areas for standards proposed by the noble Lord, Lord Evans, are more appropriately overseen by specialist bodies, such as the ORR. For example, safety should be overseen by the ORR as the safety expert, although the watchdog could have a role with respect to passenger security and personal safety.

On Amendment 199, because the ORR remains responsible for enforcement, it is important that it is satisfied that standards are clear, proportionate and enforceable before they take binding effect. This arrangement reflects the separate but complementary roles we envision for the two bodies, with the watchdog setting and monitoring standards as the passenger champion and the ORR acting as the independent and impartial enforcer.

Amendment 200, tabled by the noble Baroness, Lady Brinton, raises the important issue of accessibility and station staffing. I thank her for sharing her experiences and those of others, because the Government take this very seriously indeed. As discussed in an earlier debate, well-trained staff play a crucial role in delivering an accessible railway and providing confidence to passengers who require assistance. That is why, outside of the Bill, we are already taking action to improve staffing. Next month, we are launching a single industry training framework for passenger assistance across the rail network. Shaped by front-line staff, operational experience and customer needs, it will drive greater consistency, reduce failed assists, strengthen handovers between operators and build staff confidence, giving disabled passengers a more reliable, joined-up and inclusive journey.

I reassure the noble Baroness that it is already possible for the watchdog to develop accessibility standards, including on staff levels or the quality of training, if this is deemed necessary and appropriate through consultation. The watchdog will have powers to set standards and ensure that they are met by any means necessary, which includes enforcement by putting cases forward to the ORR. It also allows dialogue to take place so that rail operators can put measures in place quickly and effectively. If they do not, the watchdog

can escalate it to the ORR. The Bill ensures this because, as I said, it specifically enables the watchdog to set standards to help passengers who need assistance. If it created such a standard, it would then monitor compliance with it and the ORR would enforce any failures to comply. I hope this reassures the noble Baroness that the Bill is set up to enable precisely the kind of improvement that she is suggesting.

On a related point, it is not necessary to provide the watchdog with additional powers such as accessibility notices or civil penalties, as proposed by the noble Lord, Lord Holmes, in Amendment 204. There is already a clear enforcement route in the Bill that should achieve the noble Lord's aims. The passenger watchdog will set accessibility standards and hold operators to account for meeting them. Where it finds any failures, it will require operators to prepare an improvement plan setting out how these failures will be addressed. If the operator does not produce a plan or does not follow the steps in it, the watchdog will refer the operator to the ORR for enforcement action. The ORR has all the usual enforcement powers available to it, including mandatory directions requiring operators to take specific actions. This approach preserves the watchdog's role as a passenger champion while ensuring that there remains a single, independent enforcement body for the railway. It also recognises that direct engagement and improvement plans will often secure improvements more quickly than formal enforcement proceedings.

With respect to Amendment 188A tabled by the noble Lord, Lord Moylan, the board of Transport Focus is already comprised of eight members, two of whom have direct experience of accessibility issues. One has lived experience as a disabled passenger; the other is the chair of the National Centre for Accessible Transport and the former chair of the Disabled Persons Transport Advisory Committee. This will remain the same as Transport Focus transforms into the watchdog.

The Secretary of State is also subject to the accessibility duties in Clause 18, which will apply when making future decisions relating to board appointments for the watchdog. This will ensure that the future composition of the board continues to be suitably representative of disabled passengers. While we are not directly mandating specific disabled representation in legislation, I want to be very clear that this Government are committed to continuing the strong disabled representation that already exists on the board of Transport Focus. Disabled people's voices will be central to the watchdog's work, and setting a specific quota in statute is not necessary to achieve this.

Amendment 330JA in the name of the noble Baroness, Lady Jones, would require the Disabled Persons Transport Advisory Committee, DPTAC, to act as the statutory adviser to GBR. This proposal was explored by the Transport Select Committee during its scrutiny of the Bill. When asked why the Bill does not give DPTAC a formal advisory role to GBR, DPTAC highlighted that its purpose has always been that of an expert adviser to the Secretary of State on accessibility across all transport modes. DPTAC endorsed the Government's decision for it to retain this remit, noting that the passenger watchdog will be better placed to act as the day-to-day passenger champion while DPTAC continues its broader strategic role advising the Secretary of State.

The watchdog will be in a unique position to monitor the day-to-day experience of disabled passengers and identify the barriers facing them on our railway. It will also have the connections, capacity and structures to engage directly with disabled passengers and the groups representing them, ensuring that their voices are never ignored when it comes to accessibility on our railway.

DPTAC will, meanwhile, continue to play a vital role. It has a 40-year record of advising on accessible transport infrastructure. Nothing in the Bill will change that. The Secretary of State values DPTAC's advice as much as ever, and its members will continue to be critical influencers as we develop GBR.

There are advantages to maintaining these distinct roles. There may be times when the Secretary of State wants advice from DPTAC on GBR's actions. This may not appropriate if DPTAC were advising them both, as proposed by this amendment.

Lord Harper (Con): I really do not follow this argument at all. If DPTAC has two advisory roles, in advising both the Secretary of State and GBR, having an extra advisory role will not in any way stop it having the full range of advisory roles that it has with the Secretary of State across, as the Minister rightly says, the whole range of transport providers. This is an additive role, not one that takes away from it. I really do not think that, if the Secretary of State were to ask either the committee as a whole or the chair for advice about GBR, that would in any way be precluded by the fact that DPTAC also provides advice to GBR. I really do not follow that. Having had actual ministerial responsibility for working with DPTAC on some very sensitive areas, I know that it is perfectly capable of doing that work. I do not think that this is a strong argument for not giving it the extra responsibilities that were in my draft Bill and are in the excellent amendment in the name of the noble Baroness, Lady Jones.

Baroness Dacres of Lewisham (Lab): I thank the noble Lord for his observations, but his experience highlights exactly why it is perhaps more prudent for DPTAC to be able to advise the Secretary of State: we do not want to put an organisation or advisory group in a position of having a conflict of interest, which would be something of concern. I gave a very good example in what I said earlier regarding that matter.

I reiterate that we intend to consult on the GBR licence later in the year. We expect our proposals to include a licence condition requiring operators to co-operate with the passenger watchdog. This will ensure that the ORR can take enforcement actions if other licensed operators—sorry; let me just step back a minute, because I do not want to be accused of missing out any amendments.

I turn to Amendments 201 to 203 and 341; I thank the noble Lord, Lord Evans, for tabling them. Most of these amendments return to issues that we debated on the previous group. The Government's view is that the railways should continue to have a single independent

[Baroness Dacres of Lewisham]
enforcement body. I will continue with my next point. We will ensure that the ORR can take enforcement action if GBR and other licensed operators do not co-operate with requests from the watchdog, including requests for improvement plans. This makes Amendment 201 unnecessary.

The next two amendments concern GBR's consultation of the watchdog. They are Amendment 202B, tabled by the noble Baroness, Lady Jones of Moulsecoomb, and Amendment 203 in the name of the noble Lord, Lord Evans of Guisborough. The intent of these amendments is already achieved, as the Bill already ensures that GBR will consult the passenger watchdog on all significant passenger matters. Under paragraph 4 of Schedule 2, GBR will set out its proposed activities over a five-year period via its business plan and will consult the watchdog during its development.

In addition, Clause 49 puts a requirement on GBR to consult the watchdog when developing policy and procedures affecting passengers. Subsection (2) gives an indication of the activities that GBR should consult the watchdog on but, once again, this is not an exhaustive list. There is a catch-all provision at the end of this subsection covering all matters impacting passengers.

7.15 pm

I conclude by addressing Amendment 204A, tabled by the noble Baroness, Lady Jones of Moulsecoomb. The Bill includes a requirement for the passenger watchdog to keep passenger matters under review at Clause 37. In order to do this, it will need to ensure that there is wide engagement, including with passengers and passenger bodies. Transport Focus already has arrangements to consult and engage with passengers, including through the Rail Customer Experience Survey, which is based on large-scale research directly with passengers. We expect these arrangements to continue and to be strengthened further as Transport Focus becomes the passenger watchdog, such as through its oversight of complaints and disputes.

The noble Baroness, Lady Jones, mentioned deregulation. I just confirm that there is no deregulation of consumer rights or weaknesses of enforcement under this Bill. Compliance with consumer standards, such as provision of passenger information or minimum accessibility requirements, will continue to be a requirement in train operators' licences and will remain enforceable through the ORR, as they are today. This will apply to GBR and all other operators. What will change is that the passenger watchdog, as the new champion for passenger interests, will become responsible for setting and updating these consumer standards, rather than the ORR. I hope that noble Lords will see fit not to press their amendments.

Lord Moylan (Con): My Lords, I am grateful to all noble Lords who have spoken in this interesting and broad debate. I do not intend to respond at length to the Minister's remarks; I simply say that many in the Committee will have heard her remarks with a great sense of disappointment. It is almost inevitable, I am sure, that a number of these amendments—I am trying not to anticipate the debate on the coming group of amendments—will return on Report. I imagine a Division on them will be almost certain. In the meantime, and rather than go on at length, I beg leave to withdraw my amendment.

Amendment 188A withdrawn.

Clause 39 agreed.

Clause 40: Power to obtain information

Amendments 188B and 189 not moved.

Clause 40 agreed.

Clause 41 agreed.

Clause 42: Representations and referrals

Amendments 190 to 193 not moved.

Clause 42 agreed.

Clause 43: Reports

Amendments 194 and 195 not moved.

Clause 43 agreed.

Clause 44 agreed.

Amendment 196 not moved.

Clause 45 agreed.

Clause 46: Standards

Amendment 197 had been withdrawn from the Marshalled List.

Amendment 198 not moved.

Amendment 198A

Moved by ***Baroness Brinton***

198A: Clause 46, page 25, line 17, at end insert—

"(e) permanent step-free access to stations, platforms and trains,

(f) accessibility of station entrances, exits, platforms and interchanges,

(g) the carriage of wheelchairs, powered wheelchairs, mobility scooters and other mobility aids,

(h) accessibility of rail replacement services and alternative transport,

(i) provision of accessible transport where a rail replacement service cannot accommodate a passenger's mobility aid,

(j) provision and reliability of lifts, ramps and other accessibility equipment,

(k) accessible passenger information,

(l) passenger assistance, including assistance during disruption,

(m) accessible ticketing facilities, and

(n) the involvement of disabled persons and organisations representing disabled persons in the development and review of accessibility standards."

Member's explanatory statement

This amendment makes explicit that accessibility standards may cover permanent step-free access, mobility aids, rail replacement services, alternative transport, accessibility equipment, passenger information, passenger assistance and ticketing.

Baroness Brinton (LD): My Lords, Amendment 198A in the name of the noble Baroness, Lady Grey-Thompson, which I have signed, is the first in this large group of 25 amendments submitted by the noble Baroness, the noble Lord, Lord Holmes of Richmond, and me, and they often tackle overlapping issues. I do not think it will take the Grand Committee very long to work out that these amendments are all about improving the experience of passengers who need assistance on trains and in stations. Unfortunately, the noble Baroness is unwell and has asked me to lead on her amendments in her absence. I hope colleagues will join me in wishing her a very speedy recovery.

Noble Lords: Hear, hear.

Baroness Brinton (LD): I also thank the Minister and his officials for the meeting that we had last week—or the week before; I lose track of time with this Bill—and for the conversation in which we established that we would not meet about this specific group but we perhaps will between the end of Committee and the start of Report. I am very grateful to him for that suggestion; it is helpful given how many amendments there are here.

If noble Lords will allow me, I will use the noble Baroness's excellent Amendment 198A, which summarises most of the issues that she, the noble Lord, Lord Holmes, and I would like the Government to consider through amendments in this group. In the previous group, I raised the issue of an effective and properly staffed service for people with mobility reductions—not all of whom are disabled; I say that because we have to recognise that, with our changing demographics, there will be elderly people who would not describe themselves as disabled. Amendment 198A specifies nine areas that need addressing, and I will use the noble Baroness's notes to guide us through them and the other amendments in this group.

The first areas are easy-to-access stations, platforms and trains, and I start with level boarding. Tyne and Wear Metro, Greater Anglia and Merseyrail have started to move towards level boarding, which is encouraging. I have used level boarding and exiting at St Pancras on Greater Anglia and at Heathrow on the Heathrow Express. It is transformative for a wheelchair user, as it makes you completely independent—but not if it works for only part of your journey. In the previous group, the noble Lord, Lord Evans of Guisborough, talked about good lines and bad lines; the difficulty is that, when one bit of your journey goes, it does not matter whether the line is good or bad, your day becomes a bad day. A disabled passenger needs only one element of the journey to go wrong to lose their independence and, frankly, often their confidence—that is also me speaking personally.

We know that, over the past decade, a number of train companies have bought new rolling stock that will require ramps on those lines for many years to come. I think it was the noble Baroness, Lady Grey-Thompson, who said, about four or five years ago, that, when she and I first came into the House almost within weeks of each other in 2011, the target for level boarding was in the late 2020s or possibly the early 2030s. However, much of this decade's new rolling stock is not suitable for level boarding, and it will have a working lifespan of probably about 30 to 40 years based on the previous ones. Therefore, our grandchildren will be approaching old age before there is universal level boarding across the UK. That is ridiculous.

I hope that one of the aspirations of GBR is that we move away from the idea of each area having completely different rolling stock, which means level boarding is impossible. Instead, level boarding should be a goal for all trains, which in turn would reduce the need for some staffing. It would also reduce lawsuits when passengers end up stranded with no help. Even better, a smooth level service would encourage more disabled people to use the trains even more regularly. Frankly, given what the noble Lord, Lord Holmes, said in the previous group, it will open opportunities for them to have regular employment too. Many do not do that now because of the risks of problematic journeys, so more passengers will bring good economic benefits to GBR, too.

Shockingly, new stations are still being opened at the moment when they are not accessible because they are not step-free. The data is depressing: up to 1,001 stations—39%—are not listed as fully step-free. This is not acceptable, and it needs to change fast. Looking at the type of station, as you would expect, category A—national hubs—is 100% step-free. Category B—regional interchanges—is 97% step-free and category C is 80% step-free. However, categories D, E and F are all between 54% and 57%. Interestingly, small unstaffed category F stations are 60% step-free, which is an increase on the previous groupings. There are also variations by region. What are the Government's plans to improve the number of step-free stations and regularise issues over regions?

Lifts at stations are a thorny issue. Even if a station has lifts, reliability has plummeted in the past decade, as I know the Minister is well aware because he has heard this from a number of us on a regular basis. The key data is that 57% of lift faults are due to wear and tear. When spare parts are needed, the lifts can be out of order for months on end because the lift suppliers are not based in the UK. St Pancras is a regular case in point—but I get ahead of myself.

GBR must ensure that there is a proper assessment of lift life and build lift repairs and replacements into regular maintenance, rather than waiting for things to go wrong. That really does not happen consistently at the moment. Far too many lifts are failing repeatedly and then are out of service as spare parts have to be made abroad. The Thameslink lifts at St Pancras have been a nightmare for years. The consequence of them not working is as follows. You have to stay on the train and get off at Farringdon, assuming that the lifts there work. Assistance staff will help you leave the rail

[Baroness Brinton]
station. You cross the road, go into the Farringdon Underground station, get a lift down to the platform and wait for assistants to join you to get you on the Tube, which takes you back to St Pancras. I am not alone in having nearly missed a connecting train because of this nonsense. We can all tolerate the occasional problem, but this is so frequent that the service is now unreliable and I try to avoid it.

In my hometown of Watford, all the lifts had to be replaced recently—within the past five years. They did them in pairs, and each took the best part of a year, with absolute chaos. Last year, the new two year-old lift on the island platform had a major part fail. For three months, that lift was out, so, instead of commuting home late at night after leaving your Lordships' House on a 20-minute journey from Euston, I faced either an Overground that took well over 55 minutes—but at that hour of the night there were not many of them—or trains that had to be diverted to the down line, causing chaos to the scheduled services. Believe me, people did not shy away from voicing their irritation to fellow passengers. They were not cross with me; they were cross with the network.

The UK rail network has 1,403 lifts. That should give us some purchasing power in the matter of lifts and lift spares. I just do not understand why spare parts are not planned for and kept in the UK. Can the Minister provide reassurance that the purchase and maintenance of lifts will be improved? Again, this is not just for people in wheelchairs; it is for many passengers, especially those with large cases.

The space in trains for wheelchairs and other mobility aids has not caught up with current practice. Specifications for the future should include enough space for both larger wheelchairs and wheelchair scooters—you can no longer just say "scooters", which means something different—as many people now use them. With an ageing demographic using wheelchair scooters by preference and expecting to travel, this will only increase and get worse. So changing the reference-size wheelchair is important when new rolling stock is designed and ordered. More irritatingly, all the rolling stock has different sizes of wheelchair space, some with very limited turning or manoeuvring space.

Secondly, please will train designers ensure that there are places for other passengers to store their damned suitcases? Even with the new rolling stock on LNER, it is a problem. If there are staff handy, they are really good at shouting down the carriage, but if there are not, the person in the wheelchair has to shout for themselves, and sometimes people deliberately do not answer and we cannot get further down to start to find out where people might be.

7.30 pm

Replacement services and alternative transport remain consistently poor, especially regarding the carriage of wheelchairs and other mobility aids. Only 2.8% of surveyed disabled passengers say that replacement services are fully accessible. Nearly one-third of disabled passengers are left without a viable alternative when trains are cancelled. That happens to me too, and quite often that is when I have to use the remote Parliament service, but I am lucky I can do that. Most worryingly of all, 66% of passengers say that their experience during disruption has deteriorated over the past year.

Other replacement service issues include unclear and inaccessible signage—including those for visually impaired people—inconsistent staff support and limited accessible information. This is not the first time I have said this in this speech: that is woeful. Can the Minister say how the Government are planning to improve the rail replacement services system?

I was shocked to discover that only 19% of stations have an accessible toilet. I recognise that for older stations, space may be difficult, but many disabled and elderly people need a toilet that has a higher toilet seat with rails and access into and out of the toilet, so that those with hand problems, including many of the elderly, can open them easily.

I have a compliment for Network Rail. The Changing Places disabled toilet at the new station of Cambridge South is wonderful. I have not seen it yet, but a disabled friend of mine specially rang me to tell me about it because she was so thrilled. However, can the Minister say what the plan is to increase the number of disabled toilets across the network, including Changing Places toilets, on stations over the next decade? He probably will not have this to hand, but what might the budget be for the next decade?

Only 61% of stations have accessible ticket machines. That is just astonishing. Are there plans to increase the number of accessible ticket machines? Despite some problems, Passenger Assist continues to perform: over the year 2025-26, 87% of PA customers were satisfied with the whole process, from booking PA to receiving assistance, and that satisfaction level has been broadly the same since 2018-19.

That is a good baseline, but improvements still need to be made. Gaps in delivery are a shocking 10%, where customers receive none of the type of assistance they booked, with 12% receiving only some. It is important to note that passengers with non-visible disabilities often have the worst experience, and I wonder whether that is something to do with training for staff. Does it cover non-visible disabilities well enough? There is a suspicion sometimes from staff about whether the person is deserving of assistance.

Finally, Amendment 198A repeats the point that I made in my amendment in a previous group about the involvement of disabled people and organisations representing disabled people in the development and review of accessibility standards. That is absolutely vital. The disabled community talk about co-production so that the wide and varied experiences of people with differing disabilities, and therefore with different types of help needed, must be taken into account when developing new services, not after all the design has happened. Will the Minister undertake to ensure that in future this is the case? I beg to move.

Lord Holmes of Richmond (Con): My Lords, I will speak to Amendments 214, 215 and 216 in my name, which are signed by the noble Baroness, Lady Brinton—we will come to them. It is a pleasure to follow the noble Baroness, who set out all the issues in this group.

As I said in the previous group, planning should be experiential, not operational. It is about a passenger journey right from the point that she or he leaves their home or even before that point, when she or he decides to try to purchase a ticket online. If you plan operationally, it is never going to work for the passenger, and it will certainly never work for the disabled passenger.

It is worth reminding the Committee, at this stage of the Bill, what we are talking about when we talk about accessibility. Accessibility is not for disabled people; it is for all people. Inclusive by design is not for disabled people; it is for all people. One would imagine that this is self-evident, but seemingly it needs restating. If you make a change purportedly for disabled people, everybody benefits: those with suitcases, those with toddlers in pushchairs, older people and younger people—all people. Accessibility is for all people, and inclusive by design is for all people. The passenger experience needs to be planned and thought through in a co-produced, co-creative way first and only then can you move into the operational.

What is extraordinary in some of the testimony from the noble Baroness, Lady Brinton, is that even when a railway plans operationally it is not even planning operationally. If it were, the issues we have heard about, not least around lift provision, would not happen—and yet they do, blighting lives. To re-rehearse the statistics I set out on the previous group in terms of employment, only 41% of disabled people of working age are in employment, set against 83% of the broader population. That is hardly surprising if you take the examples that the noble Baroness, Lady Brinton, set out. Going through all that—exhausted before you have even got to work and before you have even begun the first minute of your working day—is it any wonder that 41% of disabled people and 27% of those who are blind and partially sighted are in employment?

My Amendments 214 through 216 do some of that experiential thinking. I must, as others in previous groups have done, commend the Minister, the noble Lord, Lord Hendy, for all the work that he has done while being in post as Minister and, before that, all the work he did as commissioner across London. He showed what is possible and never took no for an answer, never accepted the status quo and never accepted that, just because you cannot make 100% of something accessible, you should not make part of it accessible. By doing that, you have made an accessible service.

This goes to the heart of Amendment 214 around level boarding. He, I and others were told that it was impossible to make the London Underground accessible for wheelchair users. How is that doable? He and others worked on the whole concept of platform humps. It did not need to be every door of every train at every station. It was a practical, effective, accessible and inclusive solution. The trains could pull up and the disabled passenger would know from information from the station they were coming from that they would arrive where the platform hump was. Not only could they access and egress the train; they could do it independently and with dignity like any other passenger. Why was that possible? It was because we had the most immovable of deadlines. Nobody would have said, "What a great accessible Olympic and Paralympic Games I had in 2013". Having a target, having that vision and putting it into a mission is the way to get things to happen. That is why I suggest the end of 2036 for level boarding. What a phenomenal celebration that would be. It is achievable if the same logic and approach is taken as in that London 2012 planning—not every door of every station of every platform, but every station in a way that would be accessible for disabled passengers.

It is achievable. London 2012 showed what could be done. We had fewer than seven years to achieve that; this amendment suggests over 10 years. No matter how good the celebrations were in 2012—sport is fantastic—what a celebration it would be to have a level, accessible rail network across the whole country, enabling, empowering and creating possibilities not for disabled people but for all people.

My amendment on the accessibility of the rolling stock follows a similar logic. As the noble Baroness, Lady Grey-Thompson, rightly highlighted last week, why should it be that, if you are a wheelchair user and you are fortunate enough to be able to get on the train, you cannot sit with your friends, family or colleagues, with access to the buffet and toilet facilities? It is extraordinary that this has to be asked for in 2026. It is basic and fundamental, yet disabled people still cannot rely on this on the rail network.

My final amendment goes to the question of staffing, which the noble Baroness, Lady Brinton, has already touched on. This is about enabling, empowering, training and supporting all the fabulous staff across our rail network so that they have the comfort and confidence to act, to provide support and assistance to disabled people, and to be there on the station in operating hours. Again, this is not about making a change for disabled people; it is making a change for all people. It goes to the heart of demonstrating how this change would of course benefit disabled people but would also have benefits in terms of the safety of all passengers on a station by dint of having staff—humans—present at all times during the operating hours of that station. Again, this is basic stuff, but it is not currently the case.

Finally, if we do not plan experientially and continue to so chronically insufficiently plan operationally, we will get results such as the following, which has been the case, and I will ask the Minister whether it is still the case. We had stations on the network that were described as fully accessible and, indeed, they were fully accessible. The wheelchair user could enter the station, take the lift down to the platform and position themself by the train, with no hope whatever of being able to get on that train because there was no accessibility at that point. Can the Minister confirm that there is no station at all on the network that describes itself as accessible but where it is not actually possible, throughout all the hours of the operation of that station, for disabled passengers and indeed all passengers to board, access and egress the train service itself? I look forward to the Minister's response.

Lord Harper (Con): My Lords, the Committee will be pleased to know that I do not intend to speak to all the amendments in the group, although a couple leaped out at me as being worthy of comment.

[Lord Harper]

It is a great pleasure to follow my noble friend Lord Holmes, who repeated something he said before, as I have; it bears repeating. He said that if you make services more accessible for disabled people—all services, although we are talking here about railways—you make them better for everybody. The noble Baroness, Lady Brinton, mentioned in her remarks that we are not just talking about wheelchair users but people with visual and hearing impairments. In some of her amendments she also talks about wayfinding, because this also concerns people—for example, with learning disabilities—who may not have any physical disabilities themselves but who need clearer signage and better ways of navigating a station. All that is about making sure that disabled people can have the same life experiences as everybody else.

7.45 pm

My noble friend Lord Holmes also referred to the important point of making sure that everybody who is able to can work. If you cannot use a car and depend on public transport but find that it does not work for you, getting into and staying in the workplace will be very difficult. That is of course a big focus of public policy at the moment. Both the Government and Opposition are talking about it, and this will make a critical improvement.

The first of two amendments I will briefly speak to is Amendment 219 on the single accessibility digital service. First, I absolutely see the benefit of trying to bring together all the digital tools that people need for all aspects of the service. I particularly commend the noble Baroness, Lady Brinton, and her colleagues, for the bit which says that GBR must

"provide, or secure the provision of"

a single digital service, which is incredibly important. As she will know, I am somewhat sceptical about GBR's ability to be at the cutting edge of innovation on digital technology, but it absolutely has a responsibility to make sure that this stuff happens. It is much more likely that if the data that is necessary on a number of these facilities, for example data on what

"lifts, ramps, escalators and other accessibility equipment at a station are in working order"

is clearly made available, we know from other services that nimble and agile providers will provide the technological solutions to use it for customers. Most likely they will do so more quickly, more cheaply and in a more accessible way than a monopolistic state behemoth will. The key thing for me is about providing a service and making sure the data is available. This amendment is not wedded to GBR doing the delivery itself, but it has to make sure that the data is available for other people to use to produce the app.

The second and last amendment on which I will comment is Amendment 220M in the name of the noble Baronesses, Lady Grey-Thompson and Lady Brinton, on passenger assistance and making it a statutory entitlement. This would put passengers who need help to use the railway on a level playing field with everybody else. The very important part of the wording of the amendment is that it should also be an entitlement for passengers who have not booked assistance in advance.

Clearly, if you book assistance in advance, it helps providers to do that, but it should not be necessary for disabled people to have to overplan and micromanage their lives just to get around, in a way that non-disabled people do not have to. I know they do at the moment—I see the noble Baroness, Lady Brinton, nodding in a knowing way—and it may be that it is never possible to have no forward planning, but it should not be necessary to do it to the extent that it is now.

To have that statutory entitlement, and to have at least an aim that you do not need to have booked the assistance, will make people think not just about providing enough assistance but about smart ways of doing it, including making sure that staff are flexibly deployed and trained. The noble Baroness, Lady Brinton, referred to training, and covering the breadth of disability, so that you have people who are able to respond. What we really want are staff who can talk to the passenger, understand what their needs are and then have the skills themselves, or the ability to call on the help of others, to deliver what is required, without everything having been prescribed in advance.

I would be interested to know from the Minister whether this is an aspiration of the Government—I suspect it is his aspiration. If this amendment does not do the job, will the Government think about bringing back an amendment on Report to make the provision of assistance a statutory entitlement that would improve circumstances for disabled people? As I said, I am particularly struck by the need to not have to book everything in advance. That clearly makes the delivery of services better, but it should not be a requirement. Disabled people should have the same right to be spontaneous, to turn up for a journey, to not have to plan everything in advance, and to be able to change things on the fly, depending on what happens during their day. It may be that you cannot get to the same level of flexibility for some people with particular needs—that may just not be possible—but we can do an awful lot better than we do at the moment. I was struck by this amendment and I think it worthy of the Committee's support.

Baroness Pidgeon (LD): My Lords, my noble friend Lady Brinton has spoken in great detail and so eloquently about the issues and thinking behind the detailed amendments in this group that I wish only to add my complete support for it. We need our railways to be accessible to, and reliable for, all passengers, so that people are not left stranded and can travel around with ease and without fear of something going wrong.

As we have been having this debate, I was reminded that, yesterday, as I was sitting at home planning my trip to Kew Gardens, I suddenly discovered that there was a rail replacement bus as part of the journey. I could quickly use a few apps and work out a way around so that I could avoid using that rail replacement bus. However, if I had a mobility issue, that would have been so much harder and, probably, I would have had to cancel the planned trip.

The point about lifts and parts is really important. I am racking my memory back to the 2012 Games: there were lots of spare parts and we had teams all over to make sure that, certainly in London, the lifts

did not break down. There is also the issue of having trained staff at stations who are able to help with lifts. In the past, a number of them on the Underground have been closed because there were no trained staff at stations. It is a double issue there. This debate has teased out a lot of issues around the accessibility agenda, and I hope that the Minister will be able to talk to us about a way forward before Report on these important issues.

Lord Reay (Con): My Lords, I thank all noble Lords for their contributions to this important debate. Disabled passengers deserve a good, reliable and dignified service from our railways. What we have heard today, and what the evidence shows, is that too often this is simply not the case. The Government's own accessibility road map found that disabled people make 53% fewer rail journeys than non-disabled people. It also found that more than one-third of disabled passengers would use rail more if accessibility improved.

A number of these amendments deal with step-free access and level boarding. There is an important distinction between being able to reach a platform and being able to board a train independently. The Government's own figures suggest that genuine level boarding is available only at a very small proportion of stations. I therefore understand why my noble friend Lord Holmes of Richmond and other noble Lords have tabled amendments seeking greater ambition on level boarding, accessible rolling stock and new stations. I hope that the Minister can tell us what the Government's own timetable and ambition are in this area.

Passenger assistance is another major concern. The latest ORR figures show that 1.9 million pre-booked assists were made last year, alongside at least 1.5 million turn-up-and-go assists. Yet 10% of passengers surveyed said that they received none of the assistance they had booked. Disabled passengers should not have to plan every journey around the possibility that promised assistance might not arrive.

The amendments tabled by the noble Baroness, Lady Grey-Thompson, on accessibility standards, enforcement, senior accountability and reporting raise important questions about how these duties will work in practice. I do not propose to commit to the precise structures they have proposed, but the underlying point is an important one. Accessibility duties must mean something in practice. There must be clear responsibility, proper reporting and effective consequences when standards are repeatedly not met.

There is a strong case for greater consistency. Disabled passengers should not face different rules on wheelchairs, mobility scooters or assistance simply because they change operator; nor should they be disadvantaged when disruption occurs and the replacement service is inaccessible. The noble Lords who have tabled these amendments speak with considerable authority and experience on these issues. I hope that the Minister can provide reassurance that disabled passengers will be a genuine priority for Great British Railways and that accessibility will be embedded in its operation from the outset, rather than being treated as an afterthought.

Lord Hendy of Richmond Hill (Lab): My Lords, I am bound to say to start with that those who question the concept of Great British Railways and the reform of the railway have to explain why the previous system has failed so conspicuously to deliver the consistency that all passengers, including disabled passengers, deserve. It is one of the best reasons for creating GBR as a controlling mind, because it is consistency that will allow the freedom of travel for which the noble Baronesses, Lady Brinton and Lady Grey-Thompson—especially the latter, in tabling these amendments—and the noble Lord, Lord Holmes, are looking.

I, too, add my good wishes to those of the noble Baroness, Lady Brinton, for the noble Baroness, Lady Grey-Thompson. I hope that she will be back shortly; she sent me a picture of the lifts at Eaglescliffe yesterday, so she was mobile then. Last week, she said to me colloquially that her amendments amounted to a bucket list, but I cannot argue about any of their content. I am determined to change the experience that people have and make sure that the Bill leaves accessibility on the railway in a better place than it is now.

I will try to deal with these amendments by theme and quite quickly. I say to the noble Baroness, Lady Brinton—indeed, to all noble Lords here—that, as I said in our previous session in Committee, I am very keen indeed to meet noble Lords on all of these amendments in order to see what we actually need to put in the Bill on Report and what can be left to the various other devices that will allow things to happen on the railway.

I turn to Amendments 214, 215, 217, 218 and 220J, which concern the accessibility of rolling stock. It is clear to me that progress on level boarding has been hindered because decisions about trains and stations have historically been made in silos and because, even recently, many of them have not been taken with a view to accessibility at all. With its coherent, whole-system view, GBR can and will fix this. The *Rolling Stock and Infrastructure Strategy*, which was published on 28 September, sets out how GBR will approach rolling stock design and procurement. It is quite clear—I am happy to say—that unassisted level boarding and alighting will be the baseline expectation for all new trains on Great British Railways. They will use low-floor designs, and doors will be aligned with the standard platform height of 915 millimetres. The only problem with that is that platforms vary across the network, but a network-wide platform study is already under way; this will identify what else will be needed to achieve level boarding. As an aside—though an important one—His Majesty's Treasury agreed to the publication of the rolling stock strategy.

Beyond boarding, passengers need to be able to move through trains easily and use the facilities with greater independence. Toilets, better internal layouts, aisles, signage, dedicated wheelchair spaces and multi-use spaces for wheelchairs, scooters, buggies and bikes all need to be considered as part of the strategy, which commits GBR to engaging directly with passengers, disabled passengers, the passenger watchdog and other representative bodies on rolling stock design.

[Lord Hendy of Richmond Hill]

The business plan for GBR will set out how it will meet the strategy, along with its accessibility duty and any accessibility standards set by the watchdog. We expect the business plan to be updated annually to provide a transparent record of GBR's progress towards its accessibility goals, exactly as proposed by Amendment 217 from the noble Baroness, Lady Brinton.

8 pm

On Amendments 198A, 220B, 220G, 220S and 330F and the topic of accessibility standards and governance, I note that the Bill gives the passenger watchdog new powers to set passenger experience standards, including on accessibility. These will be binding on all operators via their licence conditions and enforced by the ORR. Amendment 198A proposes that the watchdog sets standards relating to passenger information and access for disabled passengers; I absolutely expect the watchdog to set standards in those areas. The list in Clause 46(2) is not exhaustive; I believe that it is wide enough to cover all the areas proposed in the amendment. I also agree that accessibility must be represented at the highest levels of railway leadership, which is the object of Amendment 220S. I am pleased to confirm that GBR will have a board-level accessibility champion and a senior leader accountable for accessibility, achieving the outcome sought by this amendment.

On Amendments 220B, 220G and 330F, I say that the Bill already provides a clear framework for accessibility oversight and enforcement. The watchdog will research and investigate problems, consult with passengers, design standards and publish evidence on the passenger experience, including Passenger Assist data, to ensure transparency. If operators fall short of these standards, the ORR will take enforcement action against them. That is clearer and better than creating an additional independent commission or revisiting the enforcement arrangements.

On the topic of station accessibility in Amendments 220, 220F, 220T and 220Q, I note that the Access for All programme was designed to improve accessibility at stations. There are now 1,484 step-free stations, with a further 12 schemes to come. We are committed to reforming Access for All into a rolling programme of improvements, informed by consultation with disabled people and local transport bodies. That should result in sustained funding to enable more efficient long-term planning and delivery, providing greater certainty for the programme and the supply chain that supports it. I am personally frustrated by the length of time taken to deliver these things and the individuality of the solutions proposed in circumstances where you would imagine they should be done on a more consistent basis.

While funding decisions beyond 2030 will be a matter for future spending reviews, I absolutely expect accessibility improvements to continue. GBR, the ORR and the Secretary of State will all be bound by the accessibility duty every time they develop another five-year business plan, propose new investments, or design or refurbish stations. I hope that that is a better way of embedding accessibility into long-term decision-making on the railway.

We also recognise the importance of integrated journeys. This April, we published *Better Connected: A Strategy for Integrated Transport*, committing £616 million to improve walking, wheeling and cycling routes to stations. It also sets out that GBR should work with local authorities to connect stations to other transport modes. Additionally, we have committed to deliver a new accessible journey planner that will be integrated with Passenger Assist. In time, it will incorporate first- and last-mile connections such as buses, trams and active travel options, creating an end-to-end travel experience.

On passenger information, the subject of Amendments 220E and 220N, I wholeheartedly agree that all passengers must have access to clear and reliable information. We have completed a national accessibility audit of all stations and have undertaken a major redesign of station pages on National Rail Enquiries, making significantly more information available to passengers. We are taking forward Welcome Points and a national British Sign Language service to improve how passengers access information and assistance. I recognise that there is more to do; I have mentioned the accessibility standards set by the strengthened passenger watchdog and reiterate that those will include standards relating to passenger information.

Lord Harper (Con): Before the Minister concludes—I felt that he was moving towards that—let me say two things.

First, I agree with what many noble Lords, including my noble friend Lord Holmes, have said about the Minister's excellent track record in this space. Although he is obviously not accepting the amendments, in going through them, he said, I think, that he was open to looking at what should go into the Bill to strengthen the position. All I would say in response is that, as well as meeting my noble friend Lord Holmes and the noble Baronesses, Lady Grey-Thompson and Lady Brinton, if it is at all possible, diary-wise, I would welcome being involved in those decisions, given my experience as a former Secretary of State and Disability Minister. I will try to play a constructive role with colleagues; they have lived experience that I do not have, obviously, but I hope that, by bringing some of my experience, I can help with trying to get to the solutions that it might be sensible to include in the Bill, if that is at all possible and if they feel that that would be helpful.

Lord Hendy of Richmond Hill (Lab): I absolutely welcome anybody's contribution to this subject. I do not think that it is solely a matter for people with disabilities; in fact, quite a lot of this is about the whole consistency of the journey. That means as much to every traveller as it does to people who need specific assistance, so I am very happy to take the noble Lord's suggestion up with him. I hope that noble Lords will recognise that I have tried as hard as I can to meet everybody on this Bill, if only because it will be better for the interactions that we have both in this Committee and outside it.

I will move on because of time—

Lord Berkeley (Lab): Before my noble friend the Minister moves on, I want to ask him something in respect of level boarding, which he mentioned. He has made great progress on that, on which I congratulate him, but there has been a problem in the past: the level boarding height for trains using the HS2 route was different in the stations that they would go into, such as Manchester Piccadilly or Glasgow. He mentioned a figure of 918 millimetres, which I think is the standard, but has this difference been resolved? Are HS2 passengers now going to be able to have level boarding on all of the platforms that they are likely to use?

Lord Hendy of Richmond Hill (Lab): Now there is a subject.

Noble Lords: Oh!

Lord Hendy of Richmond Hill (Lab): With about 40 minutes to go in this Committee session, I dare not even start that discussion. My noble friend must recognise that the rolling stock order for HS2 was placed some years ago. The challenge with HS2 now is to make those trains fit for the dedicated infrastructure on which they will run and the existing network. We will have to do our absolute best on that.

There is more to say about the new GBR website and app, including how much it will do and the fact that it will include an accessible journey planner, as well as real-time updates on staff availability and the status of station facilities such as lifts. There is also the ability to book Passenger Assist alongside buying a ticket.

On accessibility during disruption and with rail replacement, I completely agree. In fact, the Minister for Buses in the other place and I spent quite a lot of the summer on a prolonged and, I believe, successful mission to make sure that rail replacement vehicles have the same accessibility requirements as other public service vehicles. It has not been easy at all, but we are getting there. It is quite unacceptable that, when trains do not run, accessibility becomes even worse than when they do—I can see the noble Baroness, Lady Brinton, nodding. We know that, especially under a fragmented railway, it was profoundly difficult to find out what really went on from each different train operator. We know that now, though, and we are doing something about it because there is already, I think, a legal obligation to provide it.

The accessibility road map that we committed to during the last Bill has already begun driving improvements. The National Rail enquiries journey planner now includes real-time information on disruption and rail replacement services. We have also provided the thick end of £1 million to develop technologies to improve audio and visual information on rail replacement vehicles in order to deliver real-time information in accessible formats. But the real difference made by this Bill is that we are creating the passenger watchdog precisely to set nationally consistent standards for operators to follow, including baseline expectations for the provision of things such as accessible railway replacement services, exactly as the noble Baroness, Lady Grey-Thompson, proposes in Amendment 220L.

On staffing and training for staff, which is in Amendments 216, 219, 220D, 220H, 220M and 342A, nobody could not be moved by the experiences described in this Committee, in previous Committee meetings and to me in private by the noble Baronesses and others. There are many instances where the railway should have done and must do better. Although disability and equality training is mandatory under operators' current accessible travel policies, it sadly varies enormously between operators, and we know that. So we are piloting a new comprehensive training programme, co-designed in partnership with disabled people, to improve consistency across the network. It will be fully in place from GBR day 1, and will teach staff to understand the expectations and legal rights of disabled people, along with best practice for providing Passenger Assist. It will include supporting people with non-visible disabilities.

We have invested more than £11 million in improving Passenger Assist, but I would be the first to say that it is clearly not consistent enough at the moment. Things such as handovers between station staff, the booking experience—which differs between train companies and between apps—better integration of assistance requests, seat reservations and accessible journey planning all need to be made consistent. We are absolutely committed to GBR's future digital platform, whoever it is provided by, to provide a single unified offer, allowing disabled passengers to plan journeys, buy tickets, book Passenger Assist and access support in one place. This is just one of many reasons why I strongly believe that passenger assistance will improve under the directing mind of GBR.

I quickly conclude by saying that much of what we have heard this evening and in other places, and what I hear in private, is that the railway seems to have had to be kicked constantly into dealing with this. I would like to see—and I believe this Bill will provide this—an organisation that is committed to actively providing accessibility, without needing to have excessive punishment for not doing so.

I have listened carefully to every point made today. I have not addressed them all—deliberately, because of the time we have—but, as I said at the start, I am committed to further meetings with noble Lords and noble Baronesses to discuss how best we deal with this, both within the Bill and outside it. Given the period before Report, I will endeavour to do that to the satisfaction of us all so that we can come to Report understanding what the Bill can do—and what will be in the other supporting things, such as the GBR licence and other documents—and move into a better future. In the meantime, I would be grateful if the amendment could be withdrawn.

Baroness Brinton (LD): My Lords, I thank everyone who contributed to this debate. It was somewhat daunting to have 25 amendments in one group, even if they were covering the same theme. There was a lot of rich detail within that. Everyone who spoke has added value to the debate, including the Minister, who has once again shown his interest in trying to improve the services where there have been problems in the past.

[Baroness Brinton]

The Minister asked, "What went on with rail replacement?" I know what went on: the train companies bought the cheapest system they could—they went for coaches, not for buses—and it was just impossible for anybody in a wheelchair to get anywhere near it. Outside of London, Liverpool and Manchester, it is very difficult to get a wheelchair taxi in the evening, and it is very difficult to get a wheelchair taxi at the times when people are going to and coming back from school because the contracts are let to local councils. They airily say, "It's all right, you can have a taxi", but you cannot because there are none running at that time. I would be grateful if that could be looked at, because it is important.

8.15 pm

I reiterate the point that I have great hopes for GBR. I talked about procurement and the lifts. That will be a real benefit, in that instead of being done on a much more ad hoc basis, for one organisation to be able to do it will give it enormous power.

On the detail of what we need in the Bill versus how other things can be covered, I am very grateful to the Minister for suggesting a meeting. I suggest that we might need more than half an hour to go through it.

Lord Hendy of Richmond Hill (Lab): I agree.

Baroness Brinton (LD): I am very glad that the Minister agrees with me. In that case, I thank everyone for their contributions and beg leave to withdraw my amendment.

Amendment 198A withdrawn.

Amendment 199 not moved.

Clause 46 agreed.

Amendment 200 not moved.

Clause 47: Improvement plans

Amendments 201 and 201A not moved.

Clause 47 agreed.

Amendment 202 not moved.

Clause 48: Advice about railway passenger services and station services

Amendment 202A not moved.

Clause 48 agreed.

Clause 49: Consultation about railway passenger services and station services

Amendments 202B and 203 not moved.

Clause 49 agreed.

Clause 50 agreed.

Amendments 204 and 204A not moved.

Clauses 51 and 52 agreed.

Clause 53: General duties of the LTUC

Amendments 204B to 205 not moved.

Clause 53 agreed.

Clauses 54 to 58 agreed.

Amendment 206

Moved by ***Baroness Pidgeon***

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

"Passengers' Charter

(1) The Secretary of State must, within six months beginning on the day on which this Act is passed, lay before Parliament a Passengers' Charter.

(2) A Passengers' Charter must include—

(a) a guarantee about value for money, quality of service, and provision of adequate seating for any single part of a journey taken by rail for a duration greater than 30 minutes;

(b) targets for reliability of services;

(c) a timetable for implementing improvements to passenger accommodation on train services, including in relation to—

(i) seat design,

(ii) availability of high-speed WiFi and reliable cellular network service,

(iii) provision of power outlets,

(iv) storage for luggage, bicycles, pushchairs and prams,

(v) provision of toilets, including standards of cleanliness and accessibility, and

(vi) provision of on-board catering on any train service with a total duration of at least two hours;

(d) a guarantee relating to improving the accessibility of trains, stations, areas immediately surrounding stations and interfaces with connecting transport modes, and replacement road services, for passengers with disabilities;

(e) extension of the principles behind Delay Repay compensation to include a framework of compensation for failures to comply with the Passengers' Charter for lack of specified on-board amenities;

(f) a commitment that Great British Railways will take all reasonable steps to ensure that systems for compensating passengers for delays or disruption—

(i) are digital by default;

(ii) minimise any administrative burden on passengers when applying for compensation;

(iii) allow, where practicable, for compensation to be issued automatically based on information attainable by Great British Railways about a customer's journey or from a ticketing account."

Member's explanatory statement

This new clause requires the Secretary of State to lay a Passengers' Charter before Parliament and sets out the what the charter should contain, including provision relating to customer amenities, value for money, accessibility and compensation.

Baroness Pidgeon (LD): If Great British Railways is to succeed, passengers need to see a real difference and have confidence in their train services. That is why I have tabled Amendment 206, which requires the Secretary of State, within six months of the Act passing, to lay a passengers' charter before Parliament. Passenger charters are not new. Every train operating company has one of sorts, but this amendment would introduce greater consistency, cut the gap between good intentions and reality, and, critically, create a strong charter to put passenger experience first.

The current rail system does not guarantee a seat for passengers, with the exception of advance tickets—although I have to say that, numerous times, I have found that the onboard system is not working and so people are allowed to sit anywhere, which causes serious upset for those who have reserved seats for a long journey when they find that they have been taken. It is particularly an issue if you have mobility issues or you have children with you, and it knocks confidence in using the railway services. [*Interruption.*] If noble Lords want to have a conversation, perhaps they could have it outside rather than when I am speaking, please.

Many trains lack the necessary space for the storage of luggage and buggies, and the quality of wifi and mobile phone signal reception is highly variable, to say the least. A new passengers' charter for Great British Railways would give confidence to passengers in the service they should receive across the network and should help encourage more people to choose the railway for their journeys.

The areas that we believe should be covered include: guaranteed seating for journeys greater than 30 minutes; reliability targets; and, over time, clear improvements to trains, including high-speed wifi, power outlets, storage for luggage, bikes and pushchairs, as well as cleanliness and accessibility standards. Then there is my old favourite: onboard catering for journeys lasting two hours or more, which I still regularly discuss with the Minister with regards to South Western Railway. I hope that we will see some progress soon.

My noble friend Lady Leaman has spoken passionately about automatic Delay Repay. Once the charter is established, there should be a framework for compensation for failing to comply with the charter.

We understand that train designs will take longer to come on board, so a timetable for those would have to suffice in the short term. In addition, following our discussion of the previous group of amendments, there should be a guarantee relating to improving the accessibility of trains, stations, the areas immediately surrounding stations and interfaces with connecting transport modes, as well as replacement road services for passengers with disabilities.

Once train fleets are upgraded consistently and have the amenities that the modern passenger expects, the charter could be properly expanded to include the principle that what is offered on a given train fleet—whether it is seats, toilets or wifi—should work. In the European Union, rail passengers' rights are protected in the following areas: compensation for train delays; the right to self-reroute where passengers have not been offered a solution within so many minutes of a disruption; through-ticket rights, where passengers have rights if they miss a connection; and improved accessibility rights for people with disabilities or reduced mobility. They also include dedicated places for bikes; dedicated spaces are mandatory for all new trains that were ordered or upgraded after 7 June 2025.

Various operators across the world have their own terms and conditions—they sometimes call them charters—which outline the different service levels that they are prepared to provide. In Australia, Public Transport Victoria has customer service charters, while, in the US, Amtrak has a 10-point pledge to its customers. Domestically, there are a number of such charters, including from LNER, Southern Railway, South Western Railway and TransPennine Express. We strongly believe that there should be one Great British Railways passenger charter in order constantly to improve both services and the standard of service that passengers should receive on every journey. We hope that the Government will be sympathetic to this amendment and its aims.

The other amendments in this group in the name of my noble friend Lady Leaman cover the use of electronic audio devices on rail services. We welcome the Government's announcement today. The world is a very different place to when I started commuting and travelling around by rail, when people used to read newspaper and books. Most of us are now working on devices, listening to podcasts, scrolling, watching videos or even catching up on shows. These all require wifi infrastructure, as I mentioned earlier.

However, some passengers choose to let us all share in whatever they are doing on their phone. Occasionally, it is a phone call or a video call, but, more often, it is whatever show or music they are enjoying. This can also apply to children and adults gaming. Many of us enjoy the quiet carriages on our long-distance journeys; I have to say, in recent weeks, I have seen them be enforced by South Western Railway staff. These amendments have been tabled to probe the Government on what action they will take in this area—obviously, today's announcement is part of that—which is increasingly a real problem for passengers who do not want to be disturbed on their journeys.

I look forward to the Minister's response to this group on the passenger experience, and I beg to move.

Lord Hampton (CB): My Lords, very quickly, I back up what the noble Baroness, Lady Pidgeon, said so excellently. It occurred to me that, as we are in the Moses Room and have Moses bringing down the tables of the law of the Israelites, it might be apt if from here comes a passenger charter that people can take seriously. I think there is a lot of cynicism about Great British Railways and this would be a perfect way to actually say, "Here is what we believe in, here is what we are going to do".

Lord Harper (Con): My Lords, I just want to ask the Minister some questions about Amendment 311, which is obviously linked to the Government's announcements today. The Minister will know that there has been a considerable amount of cross-party support for the announcements regarding both buses and trains. My party last year and, in the spirit of sharing the benefit, the Liberal Democrats have both

[Lord Harper]
campaigned for these measures, so in principle I support them. I am a rail user and if I ever use my devices for sound, I always use my headphones, which I think is appropriate. Just last week, I was using the train, and I politely asked somebody who was scrolling through her phone and giving snippets of every little video she found, if she could possibly not do that.

That polite injunction did the trick, but it does not always and some of the worst offenders are the sort of people you probably would not want to speak to directly for fear of what might happen. Given that there have been laws, regulations or rules in place for a considerable time that say people should not play music or other noise loudly, this is primarily a question of culture or enforcement. If you raise the profile of this issue and have more signage and more announcements, how does that shift the culture? I do not want too many announcements because, frankly, lots of announcements are just as bad as people playing devices. Announcements about your journey are very useful but lots of other stuff is not really very helpful at all and is annoying. Secondly, to what extent is the annoyance caused by a relatively small number of hardcore offenders?

I do not know the answer to those questions and do not know whether there is any good data on this. How do you enforce it? It is not always reasonable for train managers to do this. They can have a go but, if somebody refuses to take any notice or behaves aggressively or violently towards them, that is a bit of a problem. Given the discussion last week about the limited resources of the British Transport Police, they may have to do it in extremis, but I am not sure I want them to be the first port of call to enforce noise regulations. We had the conversation last week about the very important job they do, for example, combating violence against women and girls and, in my book, that would be higher up the list of things for BTP to be focusing on than noise, important though that is.

I suppose my question is: on both buses and trains—and obviously we will keep it train-focused here—how do the Government see this working in practice? I think pretty much everybody would agree with the announcement; I do not think anybody will disagree with it. I think I saw some polling that said 100% of people agreed with it. If you talk about things that we think are desirable but do not have any specific, concrete plans to make them happen, all you do is increase cynicism and make people even unhappier than they were in the first place. This is primarily an enforcement question.

In response to Amendment 311, and no doubt the Government will look forward to the opportunity to comment on their announcements today, I want to hear some very specific practical steps that Ministers are going to take on trains to improve the passenger experience as far as unwanted noise is concerned. I think specifics will be very helpful indeed.

Lord Moylan (Con): My Lords, I start by welcoming the linked amendments tabled by the noble Baroness, Lady Leaman, on tackling anti-social behaviour. It must be a coincidence that they arrived and were debated on the same day that the Government said they were going to do something about it—so there is a great danger that we will all be in violent agreement on this particular topic.

8.30 pm

My noble friend Lord Harper makes a very good point. We have a Government in which the Prime Minister has instructed Ministers to make one "improve your life" announcement every day this week; the policy is the announcement. What on earth is actually going to be done to make these effective and make a big difference to people's lives?

On the question of the passengers' charter, I start with one little fact. In the latest four-week period, only 51% of trains between Guildford, Woking and Waterloo arrived on time—that is what the South Western Railway is achieving at the moment. That is the railway that, when it was nationalised, the Secretary of State announced to be a "new dawn", but this is what nationalisation is giving us. It makes the very strong case for a passengers' charter. The noble Baroness, Lady Pidgeon, has made that case. I do not necessarily have to agree with her on every detail of what it should contain, but I agree with the principle that there should be a passengers' charter—not in detail from Parliament, as the amendment does not ask Parliament to write the charter but would require the Secretary of State to do that—so that passengers know against which standards our new "people's no-choice railway" is going to be judged. We should have a role in setting that.

The Minister, I suspect, will say no to the noble Baroness. It is another instance of the Government's attitude, or Great British Railways' attitude, to this project. It is not that they oppose that passengers have rights as such, and they probably internalise it all, but they do not want to be told what to do by somebody outside Great British Railways. They want us to take the whole thing on trust, and they will sort it out, without being told. The regulator, apart from safety, is being emasculated; the Passengers' Council is to have no powers of direction; the Secretary of State's control is going to be extremely limited and attenuated; and so forth. We are told nothing about who is going to be on the board or what powers the board will have. For the Passengers' Council, we are not allowed to specify what sort of person might be on it. Everything has to be entrusted to Great British Railways—and I really think that is not going to wash. A passengers' charter is so obviously necessary that it is almost inevitable that we will return to this issue, unless the Minister defies my expectations.

Baroness Dacres of Lewisham (Lab): My Lords, I take this opportunity to remind the Committee that interventions should be brief questions for clarification, not speeches. I ask noble Lords seeking to intervene to keep their remarks concise.

Lord Hendy of Richmond Hill (Lab): My Lords, the best "improve your life" announcement I can make is that I am determined to finish this group by 8.45 pm.

I start by saying how wrong the noble Lord, Lord Moylan, is. I understand the strong interest behind Amendment 206, and I share the ambition of

the noble Baroness, Lady Pidgeon, for a railway that delivers better outcomes for passengers. Although I do not think that the level of detail proposed in this amendment should be in the Bill, I do agree with her that GBR should have a passengers' charter. I can see her point that passengers want to understand what service they can expect from GBR. We in this Committee will also want to satisfy ourselves that GBR's passenger offer is fit for purpose. It is important that GBR has a clear policy setting out what it aims to deliver for its customers, and I appreciate the noble Baroness's thoughts today on what that charter might contain. I will be happy to discuss this with her in more detail in the coming weeks.

I turn to Amendments 311 and 343. As the noble Lord said, we are in violent agreement because of the nuisance that electronic devices can cause when not used responsibly. I should say that by-law 7 of the national railway by-laws makes it an offence to cause "annoyance" through the use of sound-producing equipment and provides for fines of up to £1,000. Noble Lords will have seen the Government's announcement today about a nationwide "Share the carriage, not the noise" campaign, encouraging passengers to use headphones and be considerate of those around them. The campaign will highlight the impact that playing music, videos or phone calls aloud can have on fellow travellers and reinforce the message that existing railway rules already provide for enforcement action where behaviour causes nuisance or annoyance. Sadly, I am bound to say that we are going to make a noise about this.

Lord Harper (Con): Before the Minister moves on to his next point, he mentioned the fact that specific regulations already prohibit this behaviour, and he referred to the fines. I do not know whether it is publicly accessible, but is he able to set out for the Committee—I suspect not now, but perhaps he could write to us—the data on the number of fines issued, the value of the fines and the extent to which enforcement of the existing rules has been effective? Then we can judge, ahead of Report, whether further enforcement measures need to be put in the Bill.

Lord Hendy of Richmond Hill (Lab): If there is such information I will of course supply it to the Committee. The noble Lord, Lord Harper, queried whether this is about enforcement or culture. Of course, the truth is that it is not a choice between one or the other; it is both. Making a fuss about this—I nearly said "making a noise" again but I will not do that—and bringing it to the wider attention of the public, which has been done very successfully today, is part of the solution. We need people to think about the convenience and comfort of the people around them; if we draw it to their attention, I have no doubt that some people will change their habits, but there is also an enforcement point.

There needs to be enforcement by railway staff where it is safe to do so and, sometimes, by the British Transport Police, where it is not safe for anybody else to do it. This is the start of a campaign and it includes the use of 61016, where appropriate. It is another reason why the budget of the British Transport Police is being increased by £63 million over the next three years, enabling the recruitment of more than 200 additional officers.

I hope that I have adequately addressed these three amendments and enabled their sponsors not to press them.

Baroness Pidgeon (LD): I thank the Minister for his answer, for his support for a passenger charter and for the work he is doing in the other area around noise on trains. I look forward to having discussions with him before Report on how to take the amendment forward. I beg leave to withdraw the amendment.

Amendment 206 withdrawn.

Amendments 207 to 212 not moved.

Committee adjourned at 8.39 pm.