



7 Jan 2014 : Column 193

## Mesothelioma Bill [*Lords*]

*Consideration of Bill, not amended in the Public Bill Committee*

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140107/debtext/140107-0002.htm>

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140107/debtext/140107-0003.htm>

1.48 pm

**The Minister of State, Department for Work and Pensions (Mike Penning):** I thank you, Madam Deputy Speaker, and Mr Speaker, who is now back in the Chair, for permission to make some opening remarks at the start of Report. While I am enormously proud to bring this important and long-awaited Bill before the House, it is with a sad heart that I do so without the presence of the right hon. Member for Wythenshawe and Sale East (Paul Goggins), who has campaigned for this Bill for many years. Although we may not have agreed fully on all parts of the Bill—we will come on to those parts later—he was enormously helpful to me, not only in the Bill Committee of which he was a member, but outside the House. When I first became a Minister he was very open, and discussed with me the sort of pressures and worries that I would be having. It is a real shame he is not here today, and our thoughts and prayers are with him and his family. We wish him a speedy recovery. I know that he is very poorly, but I know that the thoughts and prayers of both sides of the House go out to him today, and I hope that we will do him proud with the Bill today.

**Kate Green (Stretford and Urmston) (Lab):** I thank the Minister for the remarks that he made about my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins). He is a good friend and colleague to Members on both sides of the House. He is my parliamentary next-door neighbour and, as the Minister has said, for those who are new in this place or to a role, my right hon. Friend is a tremendous source of support, guidance, help and friendship. We miss him very much today.

I am delighted that some of the amendments that my right hon. Friend was able to table before he became unwell will be debated this afternoon, and I hope that the Minister and others will want to do all that they can to honour Paul's intentions. I know from my right hon. Friend the Member for Leigh (Andy Burnham), who has been in touch with Paul's family, that they are hugely appreciative that we have the opportunity to debate these amendments this afternoon, and that can be the best tribute to Paul to wish him a full recovery so that we have him back with us as soon as possible.

**Mr Speaker:** I thank the Minister and the shadow Minister for their words.

New Clause 2

Research supplement

‘(1) This section makes provision about the research supplement mentioned in section 13.

(2) The research supplement—

(a) must be expressed by regulations under section 13 as a percentage of the amount set for the purpose specified in section 13(1) in accordance with section 13(2) to (5); and

(b) may not exceed 1 per cent of that amount.

(3) Regulations under section 13 must include provision about the application of the research supplement; in particular, the regulations—

**7 Jan 2014 : Column 194**

(a) must include provision for amounts raised by way of the research supplement to be applied by way of grants or other financial assistance for research into mesothelioma;

(b) must require the scheme administrator to make arrangements for the application of the research supplement;

(c) may allow the scheme administrator to arrange for a body which handles applications for research funding to administer the research supplement on the scheme administrator’s behalf;

(d) may allow receipts by way of research supplement in respect of one period to be held for allocation in a later period, and for investment of receipts pending allocation.

(4) Before making regulations in respect of the research supplement the Secretary of State must consult—

(a) insurers;

(b) medical charities and research foundations; and

(c) other persons or bodies who the Secretary of State thinks are likely to be interested.’--  
(Tracey Crouch.)

*Brought up, and read the First time.*

**Tracey Crouch (Chatham and Aylesford) (Con):** I beg to move, That the clause be read a Second time.

**Mr Speaker:** With this it will be convenient to discuss the following:

Amendment 11, in clause 1, page 1, line 6, at end insert

‘; and for funding research into mesothelioma (through the research supplement under section [Research supplement]).’.

Amendment 12, in clause 13, page 7, line 10, at end insert—

‘( ) The regulations mentioned in subsection (1) must provide for the levy to include a research supplement in accordance with section [Research supplement] (in addition to the amounts set for the purpose specified in subsection (1)).’.

Amendment 13, in clause 13, page 7, line 11, after ‘levy’, insert ‘(not including the research supplement)’.

Amendment 14, in clause 13, page 7, line 16, after ‘levy’, insert ‘(not including the research supplement)’.

Amendment 15, in clause 13, page 7, line 18, after ‘levy’, insert ‘(not including the research supplement)’.

**Tracey Crouch:** New clause 2 and the associated amendments were tabled by the right hon. Member for Wythenshawe and Sale East (Paul Goggins), and are supported by me and other hon. Members. It seems an appropriate moment to send my very best wishes to the right hon. Gentleman and his family, and I pray that he recovers soon from his severe illness. He is well respected on both sides of the House and has been a champion for fairer and quicker justice and compensation for victims of asbestos-related diseases. While we do not agree on all aspects of asbestos compensation, the one condition we do share a deep commitment to is that of mesothelioma, and we have worked hard together to find cross-party consensus on aspects of the Bill. Although it is somewhat humbling, it gives me great pleasure to move this new clause and the consequential amendments on the right hon. Gentleman’s behalf.

The right hon. Gentleman spoke at length on the issue of medical research in Committee, and I do not wish to repeat all that he said. However, it is important to remind the House of several key points. The first,

### **7 Jan 2014 : Column 195**

and in my view one of the most important points, is that we must remember the sufferers of this dreadful condition in everything we debate today. Mesothelioma is a fatal disease caused only by exposure to asbestos and while its severity can be affected by other factors, it is effectively a disease contracted simply as a consequence of going to work. Doctors who treat meso victims will tell you that it is by far the worst type of lung cancer you can contract, and unfortunately it is likely to cause not only a swift death but an incredibly painful one.

Mesothelioma is not an industrial working-class disease. Although it may be more prevalent among those who have lagged ships or worked in heavy industry, the truth is that anyone exposed to asbestos can become a victim of mesothelioma. We are seeing an increasing number of teachers suffering from this disease and of course there are those who contract it via secondary exposure, such as the wives who washed their husbands’ overalls.

Medical research to help ease the pain and suffering of those who contract mesothelioma is essential, but we must also try and find a cure, not least because we know that the peak of

those to be diagnosed is yet to come. Nearly 2,500 people will die from meso this coming year and over the next 25 years some 60,000 might die from the disease, but research into this cancer is shamefully underfunded.

Before entering this House, I was proud to be part of the efforts made by my then employer, the insurance company Aviva, and three other global insurers—AXA, Zurich and RSA—to provide funding of more than £2.5 million to the British Lung Foundation to invest in research projects. It was good to meet many of my former colleagues at a reception held in the House last year to see progress on some of those projects, one of which has been the incredibly important development of a meso-bank. The meso-bank collects tissue and blood samples from sufferers and will provide an opportunity for fundamental and translational research, which will help not only those with the condition in the UK but those in developing countries where the export and use of asbestos has been less controlled—an issue that the right hon. Gentleman also raised in Committee.

Alongside the meso-bank there have been other projects including those being run at the Queen Alexandra hospital in Portsmouth, which is looking at whether specialist palliative care immediately after diagnosis could help relieve the symptoms of mesothelioma, and that at the University of Sheffield which is looking at different treatment packages to relieve pain from this awful disease. Those projects are excellent, top-quality research projects, which would not have been possible without the initial grant from the big four insurers, but unfortunately the funding comes to an end this year, which is somewhat disappointing given that we are about to start the upward trend in those being diagnosed with mesothelioma.

Sadly, meso research funding lags far behind that of other cancers with similar mortality rates. Myeloma and melanoma had £5 million and £5.5 million spent on research respectively, which is about 10 times more than on meso—the irony being that the UK has the highest death rate from mesothelioma in the world.

The amendments would kick-start a long-term secure funding stream for further medical research into mesothelioma by placing a hypothecated levy on all members of the industry, not just the big four. There is concern about whether that would create a precedent

### **7 Jan 2014 : Column 196**

for such a levy, but that precedent already exists. We have seen levies placed on the gambling industry, under the Gambling Act 2005, to fund projects related to addiction, and on lotteries, for similar reasons. Levies have also been placed on utility companies. This could be done for the right reasons—to provide essential funding for research projects.

I have read *Hansard* for the previous discussion on this matter, so I know that the Minister pledged to raise the issue with the industry. My sources tell me that that has now happened, so it would be useful to have an update on the meeting. I believe it was agreed that further discussions with the ABI and the British Lung Foundation were to be arranged but that this has yet to happen. I appreciate that with the severe weather over the Christmas period there may have been a delay, but it would be extremely helpful to the House if the Minister could update us on where he thinks this is now going. While I recognise the desire from the Minister for it to remain a voluntary agreement between the industry and research organisations, I would be keen to hear what he intends to do if there is no long-term stable funding agreement, and whether he would commit to introducing secondary legislation to this

Bill if that is the case. It would also be helpful if the Minister could commit to the Government overseeing the facilitation of the voluntary scheme. By what date does he hope it will be in force, and can he say in terms how much he would hope the funding to be?

Mesothelioma is undeniably a dreadful condition and research into it is shamefully underfunded. We anticipate more people will be diagnosed over the coming years, from all occupational backgrounds, so it would be helpful to have a strong commitment from the Minister —albeit one recognising that this is not wholly his departmental responsibility—that there will be progress in trying to discover a cure and/or suitable treatment to relieve the horrible suffering from mesothelioma.

In moving the new clause, I hope that I have done justice to the right hon. Member for Wythenshawe and Sale East on the need for extra funding for research, and I look forward to the Minister's reply. [Hon. Members: "Hear, hear."]

**Steve Rotheram (Liverpool, Walton) (Lab):** New clause 2 on the importance of research was tabled by my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins), who sadly cannot be with us today to speak to it. I am sure that the very best wishes of the whole House for a speedy and full recovery will be relayed to his family by my right hon. Friend the Member for Leigh (Andy Burnham). I thank the hon. Member for Chatham and Aylesford (Tracey Crouch) for her contribution today and the work she has done through the all-party group with my right hon. Friend the Member for Wythenshawe and Sale East. We wanted to ensure that my right hon. Friend's amendments were debated in the House and taken forward due to the importance of this issue. He worked tirelessly on behalf of his and all of our constituents on this important issue, which still blights the lives of thousands of people. There remains no cure for mesothelioma, but it is vital that research continues to offer hope to those still suffering from asbestos-related diseases. It is also essential that sufferers receive the maximum possible compensation, and that it is not reduced by having to pay legal fees. My right hon. Friend sought to improve this proposal and I intend to press it to a vote.

**7 Jan 2014 : Column 197**

**2 pm**

New clause 2 seeks to ensure that a small part of the levy imposed on the insurance industry—no more than 1% of the total claim bill—is used to fund additional research into mesothelioma. Some 2,400 people a year die from the disease, and it is estimated that approximately 56,000 to 60,000 people, as the hon. Lady said, will die from this terrible disease in the next 30 years unless a cure is found. In the other place, the Government continually suggested that they were sympathetic, but they did not provide a guarantee to support and implement a scheme to fund mesothelioma research on a sustainable basis. That is why my right hon. Friend is so determined to see a small proportion of the levy used for research purposes. As I said at the beginning, my right hon. Friend is a tireless campaigner for mesothelioma victims. I hope this House will feel able to support these important amendments in my right hon. Friend's name.

**Jim Sheridan (Paisley and Renfrewshire North) (Lab):** I also add my best wishes to my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins), who is an avid campaigner on this issue. I will make a brief contribution.

Mesothelioma has long been neglected in terms of research funding. Lord Alton highlighted that while mesothelioma received £1.4 million in voluntary and private sector funding, £22 million is spent on bowel cancer, £41 million on breast cancer, £11.5 million on lung cancer and £32 million on leukaemia. Those are all terrible diseases in desperate need of research, but so is mesothelioma.

The amendments have the potential to save tens of thousands of lives. If a cure is found it could reduce the number of compensation payments required. It is money well spent. Not only will it save lives, it will save the insurance industry money in the long run. It is for this reason that I fail to understand why we are not on board.

I want to expose the myth that mesothelioma is related only to industrial diseases. The hon. Member for Chatham and Aylesford (Tracey Crouch) mentioned the impact on teachers, but it also affects children, ancillary workers, janitors and all kinds of people who are now employed by, or attend, schools. I ask the Minister to take the time to look at the excellent TUC and National Union of Teachers report on asbestos in schools and future compensation payments. There is evidence that some 75% of state schools have asbestos in their buildings. That is a time bomb waiting to explode. It is important to get that message out there.

Equally, it is important to let potential governors of private fee-paying schools and academies know that they could be liable to pay compensation, should they take on that responsibility, if future pupils are cursed with mesothelioma. It is important for the Government to make people aware that, when they take on governorships or other voluntary jobs in schools, they could be made liable for insurance claims.

**Jim Shannon (Strangford) (DUP):** I would like to associate myself with the thoughts and best wishes to the right hon. Member for Wythenshawe and Sale East (Paul Goggins). He is a good friend. He has been a good friend to the people of Northern Ireland, both as Minister and outside of that role. We respect him greatly and hope he will return to health and strength in a short period of time.

## **7 Jan 2014 : Column 198**

I support new clause 2, which, in the absence of the right hon. Gentleman, was moved by the hon. Member for Chatham and Aylesford (Tracey Crouch) and is supported by the other hon. Members who have spoken. It is clear that investment in research into mesothelioma is desperately needed. The UK has the highest rate of the disease in the world. That is not a number one spot that we should be proud of, but one we should be working to change. The British Lung Foundation, which I will refer to throughout my small contribution, estimates that 2,400 people will die of the disease this year and that in the next 30 years more than 50,000 people will die of mesothelioma unless new treatments are found.

Relatively little is spent on mesothelioma research in the UK, compared with other cancers with comparable mortality rates. In 2011, the National Cancer Research Institute reported that £400,000 was invested in mesothelioma research by its partners. That compares with approximately £5 million and £5.5 million spent on myeloma and melanoma respectively, two cancers that kill a similar number of people each year. I have been informed that the research amendments would charge a small additional annual administration or membership fee to participating insurance firms. Those small payments would make a huge difference to the future of mesothelioma research in the UK and could lead to a cure that would save tens

of thousands of lives. It is estimated that 150 insurance firms are active in the employers' liability insurance market. This measure could raise a vital £1.5 million each year for mesothelioma research.

I am also informed that during debates in the House of Lords, the Government suggested that the lack of mesothelioma research is due to the poor quality of research proposals, not the funding available, and that therefore a fund for mesothelioma research would not represent value for money. That was the spirit of the Government's reply to the debate in the House of Lords. The British Lung Foundation, however, put it to me that that argument does not take into account the opinions of many eminent medical and research experts. Advances have already been made through research by the BLF and others. More funding will attract more and better quality researchers and research proposals to an area of research that is still playing catch-up, having been neglected for so long. Members have talked about other cancer charities that are better funded. The BLF, as an individual organisation, has awarded more than £2.5 million to mesothelioma research in the past three years. The Government, with great respect, have fallen short. The BLF uses a robust international peer review process to ensure world class quality that is respected the world over, and its research and advice is sought by other countries. The experience does not identify any shortage in quality whatever.

In conclusion, it is clear that something more must be done, so I support the new clause.

**Dr Sarah Wollaston (Totnes) (Con):** I rise first to pay tribute to the right hon. Member for Wythenshawe and Sale East (Paul Goggins) and his work in this area. I wish him well, as all hon. Members have done, and hope for a speedy recovery. I support the amendment in his name, which was moved so ably by my hon. Friend the Member for Chatham and Aylesford (Tracey Crouch).

We must not miss the opportunity to fund research into preventing the disease. One important aspect of prevention mentioned is the risk to children in schools.

### **7 Jan 2014 : Column 199**

More than 70% of schools still contain significant amounts of asbestos. There is emerging technology for real-time testing of asbestos fibres in schools. We must continue to have a strong research base not just to relieve those who are suffering the terrible symptoms of the disease, but to research treatments and, most importantly, to look at how we prevent and protect in the workplace, so we can prevent exposure to asbestos. As all Members will know, this disease is caused entirely by exposure to asbestos, and it will be a real wasted opportunity if we do not make this funding available to advance research.

**John McDonnell (Hayes and Harlington) (Lab):** Obviously, I pay tribute to the work of my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins). One reason he tabled the new clause and amendments was that, although we commend the insurance companies that came together voluntarily to contribute £2.5 million, there are, as has been said, 140 to 150 insurance companies, and one of his concerns was the virtual impossibility of securing an agreement across them all. I hoped his claim would be put to the test before now. Had we secured a voluntary agreement by now, we would not have required the new clause and amendments, but it has not been possible, and I doubt the feasibility of bringing all those companies to the table and securing a voluntary agreement to raise sufficient funds.

I worked in factories in the north-east when I was a youngster, and I can remember the Hebden bridge experience and the asbestos factory there. For limited periods—tragically—I have known many mesothelioma sufferers, and the two things they want are, first, speedy compensation so that they and their families can get some compensation while they are still alive, if possible, and secondly, that no one else should go through this absolutely appalling suffering. That is why the emphasis has been placed upon seeking prevention. I agree with the hon. Member for Chatham and Aylesford (Tracey Crouch) that education is critical, and that is why some of the original funding—a limited amount, admittedly, but at least some—from the insurance companies was put towards education and, more importantly, finding treatment practices and palliative measures that would reduce the suffering and, in the short term, not the long term, finding a cure.

For those reasons, the new clause and amendments are key to the Bill. Without them, the Bill will not be as welcomed as many of us would have thought. I therefore urge Members and the Government to recognise this as a matter of urgency. We cannot wait for voluntary agreements any longer; we need legislation in place that can generate the income for prevention activities and research. Like other hon. Members, I hope that my right hon. Friend comes back healthy and spritely to engage with this matter and that this will be a tribute to all his hard work, but what better message to send to his family than to encapsulate at least some of his work in the Bill today?

**Mr Mike Hancock (Portsmouth South) (Ind):** I apologise for not being in the Chamber at the start of the debate; I was tied up in another meeting. I also pass on my good wishes to the right hon. Member for Wythenshawe and Sale East (Paul Goggins), who is not with us today. I hope to see him back here as quickly as possible.

### **7 Jan 2014 : Column 200**

In my constituency, hardly a week goes by when a local newspaper does not report on the inquest of someone who has died from an asbestos-related illness, having worked either in the dockyard in Portsmouth or in one of the many industries that have served the defence industry over the past 50 or so years. Interestingly, time and time again, coroners' reports request—virtually demand—that more action be taken to research and develop better techniques for helping sufferers of this godforsaken illness, which besets and destroys their lives and those of their families. I am therefore fully behind Members advocating that we do more.

The hon. Member for Paisley and Renfrewshire North (Jim Sheridan) spoke very well about the problems in our schools. I have a caseload of about two dozen people affected by this disease and fighting various stages of the illness, and that includes an ex-school teacher exposed to asbestos. The only place it could have happened was in a school classroom, and it is sad to see the burden she now carries. Even though she has retired from education on health grounds and despite the effects of this appalling illness, she is working hard to keep her family together.

The British Lung Foundation says that even a small contribution from these various organisations would lead to great improvements in research and development and help all sufferers—those in the last stages of the disease and those yet to reach that point—so I urge all Members to support the new clause. I hope that the Government will see sense and recognise that it tries to do what most people in the Chamber and the country who know

anybody affected by this disease want to see happen. I hope that will be the case when we vote on it later.

**2.15 pm**

**Kate Green:** I thank all hon. Members who have contributed to this debate, particularly the hon. Member for Chatham and Aylesford (Tracey Crouch), who moved the new clause on behalf of my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins). We support the new clause and the amendments and are pleased to have heard so many endorsements of them from hon. Members across the House.

As has been said, about 2,400 people a year die from mesothelioma and about 56,000 are expected to die from it in the next 30 years, unless a cure is found, yet, as has been shown, very little funding in the UK is being directed to research into mesothelioma. Tragically, the UK leads the world in the incidence of mesothelioma, so one might have expected us to want to lead the world in investment in research to find a cure and treatment.

**Alison Seabeck (Plymouth, Moor View) (Lab):** I apologise for interrupting my hon. Friend's flow; she was building on the comments from around the Chamber. On research in the UK, does she share my concern that my constituent, Debbie Brewer, who contracted diffuse mesothelioma from her father who had worked in the dockyard and who died last year, was forced to travel to Germany for treatment because not enough research had been done in the UK to support treatment here? That should not be happening.

**Kate Green:** I am shocked to hear of the case that my hon. Friend reports. For anyone suffering terribly from a disease they know will be fatal and cruel in its passage,

**7 Jan 2014 : Column 201**

one of the most important things is being as close as possible to home, to their family and friends, and naturally we want to do all we can to invest in good-quality, well-researched treatment so that every mesothelioma sufferer can access care as close as possible to home.

Members across the House have pointed out the differential in the level of funding afforded to mesothelioma research relative to that directed to other medical conditions and other cancers. In fact, mesothelioma research receives no state funding at all, yet as more people access payouts from the scheme introduced in the Bill, the Government should begin to enjoy financial savings as a result of reduced statutory payouts. It is not one the amendments proposed today, but the Minister might like to consider whether the savings that the Government can look forward to enjoying might also, to a degree, be directed towards funding further research into a treatment and cure for this terrible disease.

Today, mesothelioma research receives £1.4 million of entirely voluntary and private sector funding, and I pay tribute to the voluntary and private sector funders, including the insurance funders, that have made those research funds available. Some £1.4 million is available to mesothelioma each year, compared with, for example, £22 million for bowel cancer, £41 million for breast cancer, £11.5 million for lung cancer and £32 million for leukaemia. Clearly we are not anxious to be in some form of league table for which form of cancer is the most deserving of funding for research—all are terrible for those hit by them and for those close to them—but it is clear that mesothelioma is a poor relation in the funding that is

available for research, and there is a real will across the House and, as we know, in the other place to address that matter during the passage of the Bill.

This issue was debated extensively in the House of Lords as a result of an amendment tabled by the noble Lord Alton. At that time, a number of useful and welcome pledges were secured from the Health Minister, the noble Earl Howe, including the announcement of a joint strategy between the DWP and the Department of Health on how to encourage proposals for high-quality research into mesothelioma. Since Lord Howe's statement in the House of Lords, we have heard that a meeting has been hosted with potential researchers and funders to begin to take forward the implementation of that strategy. We are pleased to hear that.

As the Minister will recall, when we debated the matter in Committee my right hon. Friend the Member for Wythenshawe and Sale East absolutely rejected any suggestions that it was a lack of suitable research proposals, rather than a lack of adequate research funding, that was leading to the dearth of activity in mesothelioma research. The proposal in the new clause, which was made at every stage in Committee and in the other place, is very modest in the context of the overall scheme that we are discussing. It proposes a supplement of 1% to go towards research funding on the levy on insurers. That is not 1% of gross written premium, but 1% of 3% of gross written premium—a very modest sum for a multibillion pound insurance industry to afford, but a sum that could make an exponential difference to the scale of research that is possible into the disease. I hope that the Minister is listening carefully to the pleas that we should secure that.

#### **7 Jan 2014 : Column 202**

In Committee, my right hon. Friend the Member for Wythenshawe and Sale East listed a series of research programmes that are already under way; the hon. Member for Chatham and Aylesford also referred to those programmes. We would like to take the opportunity to secure funding to extend, expand and continue those research programmes, and to open the opportunity for further new areas of research—as I say, there is no shortage of good research ideas.

It is important to note that such research would of course be of benefit to mesothelioma sufferers in this country. We have the highest incidence of mesothelioma anywhere in the world and, as hon. Members have pointed out, the reach of mesothelioma is extending; not just to those who worked in our traditional industrial sectors but across other sectors. Schools have been particularly highlighted, as have family members who may have been exposed to secondary contamination when workers brought home asbestos fibres on clothes and work equipment.

Not just sufferers and their families here in the UK but sufferers right across the world will benefit from investment in research. That is an important point, and one that my right hon. Friend the Member for Wythenshawe and Sale East would have wanted us to consider this afternoon. In the UK, we think that we are shortly to pass the spike in mesothelioma. The history of asbestos exposure and of health and safety action and legislation to prevent people from being continually exposed to that risk means that the spike in the number of sufferers will come within the next few years. That is to be welcomed tremendously here in the UK, but it is absolutely not the case around the world, particularly in developing economies—especially developing economies where health and safety standards may be much less rigorous than we are used to in this country and where economies may be expanding very

rapidly—where hundreds of thousands, if not millions, of workers may even now be exposed to the risk of mesothelioma despite all the collective knowledge and wisdom that we have of the damage that exposure to asbestos will cause.

It is also important to note that in many of those developing economies, UK companies and businesses will have business interests and investments. In some cases they may be drawing profits from industries that are continuing to expose workers worldwide to that risk. The moral obligation on us here in the UK to lead the world in research funding arises first because of our early experience of asbestos exposure and mesothelioma and secondly because we continue indirectly to be complicit in the exposure of workers in developing economies around the world.

It has been powerfully conveyed this afternoon how strongly the House feels not just about making sure that the funding proposals come forward, but that funding to support and encourage future proposals is guaranteed and secured. I know that the insurance industry feels as concerned as any of us to address the horrors of this disease and to seek to turn a corner in dealing with the risks to which we have exposed too many generations. I hope that it too will consider this very modest proposal, which merely builds on the voluntary contribution that many of them are already making. I hope that the industry will not feel that this is a step too far for them to contemplate. Even if it does feel that, it is the responsibility of those of us in this House first and

### **7 Jan 2014 : Column 203**

foremost to speak up for victims—today’s victims and victims in the future. That is why I hope that the Minister will at last feel able to accept the amendments that have been moved on behalf of my right hon. Friend. I very much look forward to a positive response.

**Mike Penning:** I paid tribute to the right hon. Member for Wythenshawe and Sale East (Paul Goggins) earlier. When I heard the news, I e-mailed his office, as that was the only way I could contact his family. I hope that message got through. It is not just in my current post that the right hon. Gentleman has been supportive; he was also supportive when I was a Northern Ireland Minister. He was an excellent Minister there as well. I pay tribute to the measured response from Her Majesty’s Opposition so far today and I am sure that that will continue. I particularly pay tribute to my hon. Friend the Member for Chatham and Aylesford (Tracey Crouch) on what must have been a difficult speech to make. The right hon. Gentleman, who is very poorly, is a close friend; we are friends across the House. It is a tribute to my hon. Friend that she was able to move the amendments today.

During the Committee stage, I gave undertakings to the right hon. Member for Wythenshawe and Sale East—inside and outside the Committee—and discussed the restraints I was under, which he fully understood, given the deal that we struck with the insurance industry to get the Bill to where it is today. As promised, I met the ABI, to which the hon. Member for Stretford and Urmston (Kate Green) alluded, and the ABI has gone to the industry and will come back to me and to my noble friend Lord Howe as part of the joint approach that we have with the Department of Health on future research.

I have also spoken to Lord Howe, as I committed to do in Committee. As the hon. Lady said, we have had the first meeting. One of the things I touched on with him was the issue of quality of research. That matter has been taken out of context slightly, although there was no

intention to do so. It is like when anyone bids for anything; they have to tick the right boxes. When people go for a loan at the bank, they need to make sure that they have ticked the right boxes. It is not a question of the quality of research; in many cases, it is how that research has been bid for by the establishments.

It is true that the National Institute for Health Research provided £2.2 million in 2012-13 on top of the £1.4 million from the private sector. There has been money and we expect more money to come as bids come forward that match the way in which the research funding is allocated. I completely agree with the shadow Minister that we need to look at research not just in this country, as a developed nation, but for developing countries. A lot of the industries that developed products with asbestos in them have been selling them to the third world for many years. Thank goodness, many of the nations that we traditionally thought of as third world nations are now developing nations, and it is important to force this issue forward.

**2.30 pm**

I fully understand the context, tone and feelings in the House today in support of the new clause, as supported by my hon. Friend the Member for Chatham and Aylesford, but I honestly cannot break the deal,

**7 Jan 2014 : Column 204**

which is what would happen. We have a 3% provision based on a 75% basis, to which we will return later. Although I truly understand the feeling to press the new clause to a vote on behalf of the right hon. Member for Wythenshawe and Sale East—I would have done so myself if I were in opposition—we do not know whether he would have accepted the work I have done with Ministers in other Departments.

I have done everything I was asked to do and had committed to doing in Committee. Much more work is to be done, but I cannot break the deal that has been agreed. I am afraid that this is going to be a repetitive comment from me, as it was in Committee. I see the right hon. Member for Newcastle upon Tyne East (Mr Brown) nodding, because he knows of the constraints I am under, just as the right hon. Member for Wythenshawe and Sale East always knew. We need the deal to go through, so that we can get the compensation going out as soon as possible. With that, I respectfully ask for the new clause to be withdrawn, although I would fully understand it if we proceeded to a vote.

**Tracey Crouch:** This has been an incredibly hard debate for me to participate in. I do not think I have ever contributed to a debate on mesothelioma in this place without opposite me the right hon. Member for Wythenshawe and Sale East (Paul Goggins) discussing the surrounding issues. He is a decent man and he would have heard what the Minister said; he would have understood the lengths to which the Minister has gone to make some progress on the issue. As the Minister says, none of us probably knows for certain what the right hon. Gentleman would have done on this issue right now. Given that I moved the new clause on his behalf, however, it is incumbent on me to say that I think he would have liked to see a more concrete response, although I say that without any disrespect to the progress that the Minister has made. I would therefore like to press new clause 2 to the vote.

*Question put, That the clause be read a Second time.*

*The House divided:*

Ayes 226, Noes 266.

**Division No. 168]**

[

**2.32 pm**

**AYES**

Abbott, Ms Diane

Abrahams, Debbie

Ainsworth, rh Mr Bob

Alexander, rh Mr Douglas

Ali, Rushanara

Anderson, Mr David

Ashworth, Jonathan

Austin, Ian

Bain, Mr William

Balls, rh Ed

Barclay, Stephen

Barron, rh Kevin

Bayley, Hugh

Benn, rh Hilary

Benton, Mr Joe

Berger, Luciana

Betts, Mr Clive

Blackman-Woods, Roberta

Blears, rh Hazel

Blenkinsop, Tom

Blomfield, Paul

Blunkett, rh Mr David

Bradshaw, rh Mr Ben

Brennan, Kevin

Brown, Lyn

Brown, rh Mr Nicholas

Brown, Mr Russell

Bryant, Chris

Buck, Ms Karen

Burden, Richard

Burnham, rh Andy

Burns, Conor

Campbell, Mr Alan

Campbell, Mr Ronnie

Caton, Martin

Champion, Sarah

Chapman, Jenny

Clarke, rh Mr Tom

Clwyd, rh Ann

Connarty, Michael

Cooper, rh Yvette

Crausby, Mr David

Creagh, Mary

Creasy, Stella

Crouch, Tracey

Cruddas, Jon

Cryer, John

Cunningham, Alex

Cunningham, Mr Jim

Cunningham, Sir Tony

Curran, Margaret

Dakin, Nic

Danczuk, Simon

David, Wayne

Davidson, Mr Ian

Davies, Geraint

De Piero, Gloria

Denham, rh Mr John

Dobbin, Jim

Docherty, Thomas

Donohoe, Mr Brian H.

Doran, Mr Frank

Doughty, Stephen

Doyle, Gemma

Durkan, Mark

Eagle, Ms Angela

Eagle, Maria

Efford, Clive

Elliott, Julie

Ellman, Mrs Louise

Engel, Natascha

Esterson, Bill

Evans, Chris

Farrelly, Paul

Field, rh Mr Frank

Fitzpatrick, Jim

Flello, Robert

Flint, rh Caroline

Flynn, Paul

Fovargue, Yvonne

Francis, Dr Hywel

Gapes, Mike

Gardiner, Barry

Gilmore, Sheila

Glindon, Mrs Mary

Goodman, Helen

Greatrex, Tom

Green, Kate

Greenwood, Lilian

Griffith, Nia

Gwynne, Andrew

Hamilton, Mr David

Hamilton, Fabian

Hancock, Mr Mike

Hanson, rh Mr David

Harris, Mr Tom

Havard, Mr Dai

Healey, rh John

Hendrick, Mark

Heyes, David

Hillier, Meg

Hilling, Julie

Hodgson, Mrs Sharon

Hoey, Kate

Hood, Mr Jim

Hopkins, Kelvin

Hosie, Stewart

Hunt, Tristram

Jackson, Glenda

Jamieson, Cathy

Jarvis, Dan

Johnson, rh Alan

Jones, Graham

Jones, Helen

Jones, Susan Elan

Kaufman, rh Sir Gerald

Keeley, Barbara

Kendall, Liz

Khan, rh Sadiq

Lammy, rh Mr David

Lavery, Ian

Lazarowicz, Mark

Lee, Dr Phillip

Leslie, Chris

Lewell-Buck, Mrs Emma

Lewis, Mr Ivan

Llwyd, rh Mr Elfyn

Long, Naomi

Love, Mr Andrew

Lucas, Caroline

Lucas, Ian

Mactaggart, Fiona

Mahmood, Shabana

Malhotra, Seema

Mann, John

McCabe, Steve

McCarthy, Kerry

McDonagh, Siobhain

McDonald, Andy

McDonnell, John

McFadden, rh Mr Pat

McGovern, Alison

McGovern, Jim

McGuire, rh Mrs Anne

McKechin, Ann

McKenzie, Mr Iain

McKinnell, Catherine

Meale, Sir Alan

Mearns, Ian

Miller, Andrew

Mitchell, Austin

Moon, Mrs Madeleine

Morden, Jessica

Morrice, Graeme

*(Livingston)*

Morris, Grahame M.

*(Easington)*

Munn, Meg

Murphy, rh Mr Jim

Murray, Ian

Nandy, Lisa

Nash, Pamela

O'Donnell, Fiona

Onwurah, Chi

Owen, Albert

Pearce, Teresa

Percy, Andrew

Perkins, Toby

Phillipson, Bridget

Pound, Stephen

Powell, Lucy

Qureshi, Yasmin

Raynsford, rh Mr Nick

Reckless, Mark

Reed, Mr Jamie

Reed, Mr Steve

Reynolds, Emma

Reynolds, Jonathan

Ritchie, Ms Margaret

Robertson, Angus

Robertson, John

Robinson, Mr Geoffrey

Rotheram, Steve

Roy, Mr Frank

Roy, Lindsay

Ruane, Chris

Ruddock, rh Dame Joan

Sarwar, Anas

Sawford, Andy

Seabeck, Alison

Shannon, Jim

Sharma, Mr Virendra

Sheerman, Mr Barry

Sheridan, Jim  
Shuker, Gavin  
Simpson, David  
Skinner, Mr Dennis  
Slaughter, Mr Andy  
Smith, Angela  
Smith, Nick  
Smith, Owen  
Stringer, Graham  
Stuart, Ms Gisela  
Sutcliffe, Mr Gerry  
Thornberry, Emily  
Timms, rh Stephen  
Trickett, Jon  
Turner, Karl  
Twigg, Derek  
Twigg, Stephen  
Vaz, rh Keith  
Vaz, Valerie  
Walley, Joan  
Watts, Mr Dave  
Weir, Mr Mike  
Whiteford, Dr Eilidh  
Whittaker, Craig  
Williams, Hywel

Williamson, Chris

Wilson, Phil

Wilson, Sammy

Winnick, Mr David

Winterton, rh Ms Rosie

Wishart, Pete

Wood, Mike

Woodcock, John

Wright, David

Wright, Mr Iain

**Tellers for the Ayes:**

Heidi Alexander

**and**

Dr Sarah Wollaston

**NOES**

Adams, Nigel

Afriyie, Adam

Aldous, Peter

Amess, Mr David

Andrew, Stuart

Arbuthnot, rh Mr James

Baker, Norman

Baker, Steve

Baldry, rh Sir Tony

Baldwin, Harriett

Barker, rh Gregory

Bebb, Guto

Bellingham, Mr Henry

Benyon, Richard

Beresford, Sir Paul

Berry, Jake

Bingham, Andrew

Binley, Mr Brian

Blackman, Bob

Blunt, Mr Crispin

Boles, Nick

Bone, Mr Peter

Bray, Angie

Brazier, Mr Julian

Bridgen, Andrew

Brine, Steve

Brokenshire, James

Brooke, Annette

Bruce, Fiona

Bruce, rh Sir Malcolm

Burley, Mr Aidan

Burrowes, Mr David

Burstow, rh Paul

Burt, rh Alistair

Burt, Lorely

Cable, rh Vince

Cairns, Alun

Campbell, rh Sir Menzies

Carmichael, Neil

Carswell, Mr Douglas

Cash, Mr William

Chishti, Rehman

Clappison, Mr James

Clark, rh Greg

Clifton-Brown, Geoffrey

Coffey, Dr Thérèse

Collins, Damian

Colvile, Oliver

Crockart, Mike

Davies, David T. C.

*(Monmouth)*

Davies, Glyn

de Bois, Nick

Dinenage, Caroline

Djanogly, Mr Jonathan

Dorrell, rh Mr Stephen

Dorries, Nadine

Doyle-Price, Jackie

Duddridge, James

Duncan, rh Mr Alan

Duncan Smith, rh Mr Iain

Ellis, Michael

Ellison, Jane

Ellwood, Mr Tobias

Elphicke, Charlie

Evans, Graham

Evans, Jonathan

Evans, Mr Nigel

Evennett, Mr David

Farron, Tim

Featherstone, Lynne

Field, Mark

Fox, rh Dr Liam

Freeman, George

Freer, Mike

Fullbrook, Lorraine

Gale, Sir Roger

Garnier, Sir Edward

Garnier, Mark

Gauke, Mr David

George, Andrew

Gilbert, Stephen

Gillan, rh Mrs Cheryl

Glen, John

Goldsmith, Zac  
Goodwill, Mr Robert  
Graham, Richard  
Gray, Mr James  
Grayling, rh Chris  
Green, rh Damian  
Griffiths, Andrew  
Gyimah, Mr Sam  
Halfon, Robert  
Hancock, Matthew  
Harper, Mr Mark  
Harrington, Richard  
Harris, Rebecca  
Hart, Simon  
Harvey, Sir Nick  
Haselhurst, rh Sir Alan  
Hayes, rh Mr John  
Heald, Oliver  
Heath, Mr David  
Heaton-Harris, Chris  
Hemming, John  
Henderson, Gordon  
Hendry, Charles  
Hinds, Damian  
Hoban, Mr Mark

Hollingbery, George

Hollobone, Mr Philip

Hopkins, Kris

Howarth, Sir Gerald

Howell, John

Hughes, rh Simon

Hunt, rh Mr Jeremy

Huppert, Dr Julian

Hurd, Mr Nick

Jackson, Mr Stewart

James, Margot

Javid, Sajid

Johnson, Gareth

Johnson, Joseph

Jones, Andrew

Jones, rh Mr David

Jones, Mr Marcus

Kawczynski, Daniel

Kelly, Chris

Kennedy, rh Mr Charles

Kirby, Simon

Kwarteng, Kwasi

Lamb, Norman

Lancaster, Mark

Lansley, rh Mr Andrew

Latham, Pauline

Laws, rh Mr David

Leadsom, Andrea

Lee, Jessica

Leech, Mr John

Lefroy, Jeremy

Leigh, Sir Edward

Leslie, Charlotte

Lewis, Brandon

Lewis, Dr Julian

Lidington, rh Mr David

Lilley, rh Mr Peter

Lloyd, Stephen

Loughton, Tim

Luff, Sir Peter

Lumley, Karen

Macleod, Mary

Main, Mrs Anne

Maude, rh Mr Francis

Maynard, Paul

McCartney, Jason

McCartney, Karl

McLoughlin, rh Mr Patrick

McPartland, Stephen

Metcalf, Stephen

Miller, rh Maria

Mills, Nigel

Milton, Anne

Mitchell, rh Mr Andrew

Moore, rh Michael

Mordaunt, Penny

Morgan, Nicky

Morris, David

Morris, James

Mosley, Stephen

Mowat, David

Mulholland, Greg

Munt, Tessa

Murray, Sheryll

Murrison, Dr Andrew

Neill, Robert

Newmark, Mr Brooks

Newton, Sarah

Nokes, Caroline

Norman, Jesse

Nuttall, Mr David

O'Brien, rh Mr Stephen

Offord, Dr Matthew

Ollerenshaw, Eric

Opperman, Guy

Ottaway, rh Sir Richard

Parish, Neil

Pawsey, Mark

Penning, Mike

Penrose, John

Perry, Claire

Pincher, Christopher

Poulter, Dr Daniel

Prisk, Mr Mark

Pugh, John

Raab, Mr Dominic

Redwood, rh Mr John

Rees-Mogg, Jacob

Reid, Mr Alan

Rifkind, rh Sir Malcolm

Robathan, rh Mr Andrew

Robertson, Mr Laurence

Rogerson, Dan

Rudd, Amber

Russell, Sir Bob

Rutley, David

Sanders, Mr Adrian

Sandys, Laura

Scott, Mr Lee

Selous, Andrew

Sharma, Alok  
Shelbrooke, Alec  
Shepherd, Sir Richard  
Simmonds, Mark  
Simpson, Mr Keith  
Smith, Chloe  
Smith, Henry  
Smith, Julian  
Smith, Sir Robert  
Soubry, Anna  
Spelman, rh Mrs Caroline  
Spencer, Mr Mark  
Stanley, rh Sir John  
Stephenson, Andrew  
Stevenson, John  
Stewart, Bob  
Stewart, Iain  
Stewart, Rory  
Streeter, Mr Gary  
Stride, Mel  
Stuart, Mr Graham  
Stunell, rh Sir Andrew  
Sturdy, Julian  
Swales, Ian  
Swayne, rh Mr Desmond

Syms, Mr Robert

Tapsell, rh Sir Peter

Thurso, John

Timpson, Mr Edward

Tomlinson, Justin

Tredinnick, David

Truss, Elizabeth

Turner, Mr Andrew

Tyrie, Mr Andrew

Uppal, Paul

Vickers, Martin

Walker, Mr Charles

Walker, Mr Robin

Ward, Mr David

Watkinson, Dame Angela

Weatherley, Mike

Webb, Steve

Wharton, James

Wheeler, Heather

White, Chris

Whittingdale, Mr John

Wiggin, Bill

Willetts, rh Mr David

Williams, Roger

Williams, Stephen

Williamson, Gavin

Willott, Jenny

Wilson, Mr Rob

Wright, Jeremy

Wright, Simon

Yeo, Mr Tim

Young, rh Sir George

Zahawi, Nadhim

**Tellers for the Noes:**

Gavin Barwell

**and**

Karen Bradley

*Question accordingly negatived.*

**7 Jan 2014 : Column 205**

**7 Jan 2014 : Column 206**

**7 Jan 2014 : Column 207**

**7 Jan 2014 : Column 208**

Clause 2

Eligible people with diffuse mesothelioma

**Mr Nicholas Brown (Newcastle upon Tyne East) (Lab):** I beg to move amendment 5, page 1, line 15, leave out ‘25 July 2012’ and insert ‘10 February 2010’.

**Madam Deputy Speaker (Mrs Eleanor Laing):** With this it will be convenient to discuss the following:

Amendment 6, in clause 3, page 2, line 44, leave out ‘25 July 2012’ and insert ‘10 February 2010’.

Amendment 4, in clause 4, page 3, line 4, at end insert

‘but shall not be less than 100 per cent. of the average damages recovered in civil mesothelioma cases.’.

Amendment 1, page 3, line 5, at end insert

‘but shall not be less than 80 per cent of the average civil compensation recovered by mesothelioma claimants.’.

Amendment 9, page 3, line 5, at end insert

‘and shall be met by a levy on insurers of not less than 3 per cent of gross written premium during any given period.’.

**Mr Brown:** Before I explain the purpose of the three amendments that stand in my name, I want to make two more general points.

First, let me identify myself and my constituents with the tributes that have been paid to my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins). My right hon. Friend has been a champion of my constituents as well as his own in all his work on issues relating to mesothelioma. Like many other Members whose constituencies are hotspots for the condition, I greatly appreciate the work that he has done over the years in trying to help those who suffer from it, and, indeed, his work more generally as a widely respected parliamentarian. I know that the whole House wishes him a speedy recovery.

Secondly, let me pay tribute to the Minister for managing to take the Bill so far forward—further forward than I managed to take the measure that I attempted to introduce when I was a Minister in the Department, which was slightly more wide ranging and was certainly brought to a halt more effectively. It is with some admiration that I pay my small tribute to the Minister—or, rather, my large tribute, for why should quantum be an issue? Actually, it is the issue in this part of the Bill, but we shall come to that shortly. I know of the pressures that the Minister has faced externally and within the broader Government over this issue, and I think he has done extremely well to get us to where we are now.

### **7 Jan 2014 : Column 209**

Having said that, I should explain why I tabled my three amendments. There is no position that cannot be improved with a little bit of thought, and in any event it is right to test the arguments. The amendments seek to increase the share of the amount that the arbitrator gives the victim that actually reaches the victim, and to give the legislation an earlier start date—2010 rather than 2012.

Let me address the compensation issues first. My amendment says compensation should be 100% of what is due. Nobody in the discussions we had on Second Reading and in Committee has made a moral case against giving somebody 100% of what they are entitled to. In fact, some very powerful speeches were made in this place on Second Reading on precisely this point, and I think it was my hon. Friend the Member for Blaydon (Mr Anderson) who pointed out that within a few months the victims are going to be 100% dead, so 100% compensation does not seem unreasonable. After all, the employers paid 100% of the premiums and they thought they enjoyed 100% of the cover. Had there been recourse in law, they would have got 100% of the damages. In not one of these cases has the defence

argued that to some extent the victim contributed to his or her own misfortune, and, when we think about it, what contribution could they have made that led to their own misfortune—breathing? It is a ridiculous contention. The victims are not to blame and therefore they should not have their compensation cut.

**Hywel Williams (Arfon) (PC):** Does the right hon. Gentleman agree that it is significant that a similar scheme under the 1979 Act provides for 100% compensation for slate workers in my constituency who cannot identify the insurers of their previous employers?

**Mr Brown:** The hon. Gentleman is correct, but the issue before us today is the rules for a very specific scheme that evolved through a voluntary negotiation with the industry. As we know, the Minister will say that there are financial parameters to the scheme that he cannot break.

**Mr Barry Sheerman (Huddersfield) (Lab/Co-op):** Does my right hon. Friend agree that there have been so many injustices in this area? My brother, Bob, died of this condition. He worked for BP all his life. When it was proven he had this condition BP worked as hard as it could to give him as little as possible. The company put all that money into addressing the oil spill in America, yet that is how it treats its own employees. I feel very strongly about this, therefore, and support my right hon. Friend's amendments absolutely, and I do so, too, because many people in the asbestos industry worked in west Yorkshire.

**Mr Brown:** I care about this issue and I know my hon. Friend cares about it, too, and it is true that many Members of Parliament on both sides of the House, but especially those who represent communities that suffer disproportionately from this, know that their constituents face a desperate injustice. The burden of this condition is not shared evenly across the country. It affects our population by class; working-class constituents are far more likely to suffer from it than middle or upper-class

**7 Jan 2014 : Column 210**

ones. It affects our constituencies by region, too; there are regional hot spots, historically found in areas of heavy industry where people were very likely to be exposed to the dust, whether because they sprayed it on railway carriages or worked with it in the shipyards or as thermal insulation engineers and were not properly protected.

**John Woodcock (Barrow and Furness) (Lab/Co-op) rose—**

**Mr Brown:** I give way to my hon. Friend who represents a similar constituency to mine with a similar history.

**John Woodcock:** My right hon. Friend is absolutely right in what he says. I, too, want briefly to add my tribute to our right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins). I know many other Members have done so, but this is a fitting time to do so.

Does my right hon. Friend the Member for Newcastle upon Tyne East (Mr Brown) agree that the people we are discussing served their country for many years? Barrow and Furness has the highest incidence of mesothelioma in this country. They served their country in making what they did and they deserve justice now, and this is our opportunity to give it to them.

**Mr Brown:** I wholly agree with my hon. Friend. We as a House should find a way of doing more. If we cannot do it within the parameters of the scheme, we should find a way of doing more outside the parameters of the scheme.

**Mr Mike Hancock:** If the right hon. Gentleman presses his amendment to a Division he will have my support, but what does he say in response to the argument that if his amendment is carried it will delay the scheme and lead to a legal challenge, which, once again, will mean many people will die before the scheme can be implemented? What is the rebuttal to that, because it is important that we have one?

**Mr Brown:** I hope to make my position clear as I develop my arguments, but I want to do the best I can for the victims of this terrible condition and that will, at the end of the day, involve compromise. We are about to debate among ourselves how far we have to compromise, but I am not going to hold to some theoretically correct position if the arguments march in the opposite direction. We all have a responsibility to do what is right for the victims and if we recognise—I think as the debate progresses the majority of those taking part in it will do so—that there are injustices left unaddressed, then maybe we should return to those issues and find a way of addressing them comparable with agreements that have been made with the industry.

**Sammy Wilson (East Antrim) (DUP):** Will the right hon. Gentleman accept that of course the insurance industry is going to come in with a heavy hand, arguing that it will take this to court and make legal challenges and that will delay things? We had the same experience with pleural plaques legislation in Northern Ireland. The industry backed down when the legislation went through. Given that the insurance companies have reaped

#### **7 Jan 2014 : Column 211**

the benefit of these premiums over the years, is it not up to this House to make sure they pay out proper sums to the victims?

**Mr Brown:** The answer to that is that they did take the premiums and prior to 2007 there was an assumption that pleural plaques cases could go against the insurers. It was only the High Court 2007 judgment that put a stop to all that. The premiums did not have to be refunded; they were just kept. The figure I have for that is over £1.4 billion held by the insurers. If companies have taken premiums for something they are never going to have to pay out for, that seems to me to be a pretty good business.

**Toby Perkins (Chesterfield) (Lab):** I also want to echo the comments of colleagues who have paid tribute to the work of my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins), and to pay tribute to the work done by Derbyshire asbestos support trust. It has done tremendous work in supporting asbestos victims. It had 14 new victims in the last year and they continue to come forward. I am very pleased with what my right hon. Friend the Member for Newcastle upon Tyne East (Mr Brown) has said about the moral case being made for these people, and I also entirely agree that we need to work these arguments out, make the moral case for these people and make sure they get justice as quickly as possible.

**Mr Brown:** My hon. Friend will have his share of constituency cases, just as I do, and for the same reason: the industrial heritage of his constituency. We know that the profile of the

victims is forecast to be different from the historical legacy, but it depends on the effectiveness of the protection measures we as a House have put in place. That was done with all-party consent—in fact, I think I was the Minister who moved the last set of regulations covering asbestos. We do not yet know how effective they are, however. As has been said from the Opposition Front Bench, we expect the number of cases to peak about now—in a year or so—but we do not know that that will be the case. I hope it will be, but we need to maintain our vigilance. The new cases will come from building contractors, people dismantling, rather than erecting, structures, and people who have come into contact through, perhaps, thinking they were dealing with a solid piece of material and who then hammered a nail into it or scratched it and breathed in the dust.

Exposure once is enough to cause mesothelioma and the consequences are fatal, so it is important that we take this issue seriously. I know the Minister is doing so and that the House is attempting to do so as well, but I think we should have it in the forefront of our minds that we may be returning to this issue in future.

The scheme before us today is targeted on people in a very particular position: they cannot find an insurer or they cannot trace an employer.

**Mike Penning:** It is important to remember that this is about employee liability in cases where the insurer cannot be found. A great deal has been said about public liability, but this scheme would not cover that. The right hon. Gentleman is right to say that we will see more and more examples of schools in which pupils will have been affected, but that will be covered by public

### **7 Jan 2014 : Column 212**

liability insurance. Schools and similar institutions are public places, so it will be a lot easier to find the insurer involved.

**3 pm**

**Mr Brown:** I agree wholeheartedly with the Minister on that point. My thoughts are with the young children in Leeds who found an abandoned pile of what turned out to be asbestos dust that had not yet been mixed with water and used for its purpose. The children, being children, formed it into “snowballs” and threw them at each other and breathed in the dust. Some 40 or 50 years later, their cases are now turning up as mesothelioma cases, but who is the insurer or the employer? It is difficult to say who is the responsible party. No one could possibly argue that those young children contributed to the ill health that they are suffering later in life. The Minister rightly says that we must deal effectively with such public liability cases, and I wholeheartedly support him in trying to find a way of addressing the matter.

There are two arguments against my proposal for 100% compensation. The first—and, incidentally, the weakest—is that it would incentivise the victim to see whether there was an insurer or employer against whom a case could be taken. It is argued that the prospect of getting 100% compensation, compared with 70% under the proposed scheme of last resort, would incentivise someone—whose life expectancy was now a matter of months rather than years—to go out and hunt for the insurer or employer, using whatever resources were available to them.

Let us pause and think about that. How on earth would an ordinary citizen go about tracking down those missing people? A good argument that was made in the other place was that the incentivisation should surely work the other way round. If there is to be incentivisation through paying less compensation, surely we should make the compensation not 100% but 110%, so that the administrators of the scheme, who had access to the former insurance companies' records, would have to go hunting to determine whether it was possible to launch a case. They should be the ones to be incentivised. I am not arguing for more than 100% compensation, by the way, although I did table a proposal to that effect in Committee.

I believe that any incentivisation should work in that way, rather than suggesting that some poor old victim whose days are numbered should turn themselves into a modern-day Perry Mason and hunt down an employer that probably no longer exists—particularly in the case of a contractor—or an insurance company that has gone into receivership or will not acknowledge its liabilities. I think that the argument about incentivisation is pretty disgusting, and I do not support it.

**Sammy Wilson:** Does the right hon. Gentleman also accept that the very people towards whom the incentive might be directed are least able to track down those organisations? The situation would be doubly unfair, because their health is not great and they do not have the resources to do the tracking.

**Mr Brown:** I agree 100% with the hon. Gentleman, who represents a community in Northern Ireland with exactly the same history as that of the former Swan Hunter shipyard workers and others whom I represent.

### **7 Jan 2014 : Column 213**

We have a common cause in this regard. A lot of help is given by the trade unions in the shipyards—the cases involving Short's and Harland and Wolff are exactly the same as those involving Swan Hunter—but even with that help, the balance of advantage remains with those who know the insurance industry. Those with links to the relevant trade associations have the resources to find out whether the insurers still exist, and can find that information pretty quickly these days. Some work has been done to try to improve that process, and I am grateful for the efforts made by our Government and the present one to ensure that that continues.

The principal objection to the payment of 100% compensation is that it would break the agreement that the Minister has made with the industry. I know that he does not take offence when people like me say that a lot of premiums have been taken to insure against things that the industry is now not going to have to pay out on. It would pay out if I had my way, but the law established in 2007 says that it need not do so. The pleural plaques judgment has meant that the industry is the beneficiary of the premiums that it has taken in relation to pleural plaques, although not to mesothelioma, because the cause of action has been struck down. I think I am right in saying that that does not apply in Scotland or Northern Ireland, although it certainly does in England.

**Mike Penning:** I apologise for not intervening on the right hon. Gentleman earlier before he moved on to this point. I completely agree that it is spurious to argue that 100% compensation would act as an incentive. That suggestion has come from other parties, but

certainly not from the Government. I want to place on record that that is not the Government's position.

**Mr Brown:** I am grateful to the Minister for that intervention, and for its tone. The incentivisation argument is a distasteful one, and I am glad that the Government are not associating themselves with it. That makes it clear that the argument is about affordability within the parameters of the scheme.

I accept that the case for 100% compensation cannot convincingly be made, even by me, if the test is affordability within the parameters of the scheme. Amendment 1 proposes a figure of 80%, and whether that would be affordable within the parameters of the scheme is a finer point. I am not giving in, however. I believe that the victims deserve 100% compensation, but I understand that, if the Government are saying that the test should be the parameters of the negotiated scheme, we will have to maximise the money available to the victims within those parameters. We have all used the useful chart produced by the Minister's Department as the factual background to the debate. The outcome will depend on whether we factor the percentages over four years or whether we take a longer, 10-year view. The Minister will not be surprised to hear that I take the longer view because I want the victims to have more money.

In determining whether the proposals are affordable within the parameters of the scheme, the Minister needs to explain two points. First, he must explain why 80% compensation would not be affordable, on his own figures. My submission is that it would be if it were spread over a longer time period and therefore cost less per year.

#### **7 Jan 2014 : Column 214**

The second point involves the cost of lawyers. This is set out in regulations, and the Minister is right to say that it should not be in the Bill itself, but the legal costs are going to have to be met. The estimate was £2,000 per case, but the figure then rose to £7,000. It is not clear which is the right figure. I do not want to mislead anyone; the cost will not come out of the money awarded to the victim, but it will come out of the overall cost of the scheme. The question of whether the cost is £2,000 or £7,000, or somewhere in between, will therefore make a difference. Will the Minister tell us what the correct figure is?

**Mike Penning:** The figure is £7,000, and the right hon. Gentleman is right to say that the figure comes out of the overall cost of the scheme—out of the 3%. If the claimant pays less than that figure, they keep the difference—thus, it becomes part of their compensation. We discussed the reason why the figure moved in Committee and in the Lords: it was felt that £2,000 was too low and so people would not get the sort of legal advice they needed. We desperately did not want the situation that had happened with other schemes whereby the legal teams got more money out of the compensation than that—that is why the figure is £7,000. In the negotiations I have been having, the feeling has been that the actual amount will be less, so the recipients or their loved ones will get the difference.

**Mr Brown:** I understand what the Minister is saying, and we all travel in hope—I certainly travel with him in hope. I hope this does not sound unduly cynical, but once the legal profession knows that a maximum of £7,000 is available for the cost of administering this, the work done and the effort put in by the individual law firms is likely to rise up towards the £7,000 ceiling. The Minister's hope that simpler and more straightforward cases will confine

themselves to a lower fee is correct, and I am with him on it, but I have the feeling that things will not work out that way. If they do not, there will be a cost on the scheme and so it will become harder to say, “We will put up the money for the victims” because the 3% ceiling will have been approached.

The second issue in this group of amendments is when the scheme should start. The Government’s proposal is to start it in 2012—backdating to the commencement of the Bill’s proceedings. My argument is that it should be backdated to the date of the consultation that led to the Bill. The consultation started under the previous Labour Government and was designed to meet exactly the same problem that the Government have identified. That consultation was on a slightly more generous scheme than this one, but of course the fruits of that consultation have not been heard and the discussions were only in their infancy when the general election interrupted proceedings.

It would be possible to make a case for a much earlier start date for a scheme of this nature. We could go back to the date of guilty knowledge for the industry as a whole, which would take us back before the second world war—if we were being really rigorous. There are certainly milestones in how our thinking has developed on these issues which go back a lot earlier than 2010. However, the Opposition Front-Bench team and I have put forward the most modest proposition that it would be possible to conceive of. We are saying that the start

#### **7 Jan 2014 : Column 215**

of consultation was the start of legitimate expectations in the minds of the victims who were being consulted and it put the industry on notice that there was to be a statutory scheme or that at least the then Government were contemplating such a scheme. This could not have come as a complete surprise to the industry.

**Alison Seabeck:** I entirely agree with the point my right hon. Friend is making. When the consultation was taking place under the previous Labour Government, my constituents did become enthused. There is not too much to enthuse someone suffering from mesothelioma, but they were enthused because they felt there was some light at the end of the tunnel. It is, therefore, entirely appropriate that we do look back in this regard. I have no doubt that the insurance companies, which understand risk better than anybody, would already have started planning at that stage to deal with a start date going back to 2010.

**Mr Brown:** My hon. Friend, who represents a community that faces exactly the same issues as mine for exactly the same reasons—wrongful exposure to asbestos dust—will have constituents raising exactly the same issues with her. She says that the industry ought to be experts in assessing risk. That is certainly true, but it did not half get it wrong over asbestos. We can all remember the crisis over asbestos liabilities that the industry went through. What relieved the burden more than any other single thing was the 2007 judgment on pleural plaques, which meant that that much larger swathe of cases was taken off the shoulders of the insurers, so the remaining insurers were better able to deal with the mesothelioma cases. We also saw some unhappy episodes relating to the work of Lloyd’s. We will perhaps not go over those again, but they did not reflect well on the industry, which is why we should be a little careful before taking everything it says to us absolutely at face value.

**3.15 pm**

The other point to make for the earlier start date relates to the short life span of the victims. New drugs such as Alimta, however, are offering a few months' extra life to the people for whom they actually work—responses to these drugs are different depending on the individual. We are talking about an early but very promising development, and I am proud of the work that Newcastle university has helped to do in the development of this intervention. This underpins the points made in our earlier debate about the need for more research. If we bring the start date back, living people could possibly just come into the scope of the scheme. In any event, their families will fall under the scheme and it is for the dependants and the families that we should make this modest decision and use the start date of the consultation, when the then Government's intentions were clear and the industry was put on notice, rather than do the meanest thing possible and make the start date 2012. I understand that it is anticipated that an extra 600 cases, or something of that order, would be affected by such a move, but the Minister will have a better figure.

**Mike Penning:** The right hon. Gentleman has alluded to the fact that I am trapped within the funding parameters of the scheme. It will be 80 million extra if we took the start date back to 2010 and that would take us outside the scheme—

### **7 Jan 2014 : Column 216**

**Mr Brown:** I take it that when we are talking about “80 million” we are talking about money rather than about people—I know that there is a separate debate about immigration and so on.

**Mike Penning:** I apologise if I have misled anyone; I was talking about the funding parameters I am restricted by. The cost of taking the date back to when the consultation started would be £80 million. One other issue that we discussed in Committee was that although the consultation rightly contained an option that the then Government were looking at taking forward, there was also an option to do nothing. That is obviously an issue, but the big issue is the money.

**Mr Brown:** On that last point, I am more aware than anyone else in this place could be of the forces that would be in favour of the option to do nothing, and I have paid my tribute to the Minister for doing something rather than nothing. He should take pride in the job he has done, and I pay him all credit for it. That £80 million will be the top figure—it will be the highest possible figure that the officials believe they can give the Minister so that he can use it to dissuade the House. I am not entirely convinced by it. He cannot possibly know the real figure, because we will not know that until the cases come forward—it could well be a lot less. I would be willing to take a chance on it and to do justice to the victims. Let us stand the Minister's argument on its head. He is inviting us to do the victims of this horrible disease—or, more likely, their families and dependants—out of £80 million. I do not want to do that, so I will want to put the proposition to the vote.

**Tracey Crouch:** It is a pleasure to follow the right hon. Member for Newcastle upon Tyne East (Mr Brown), to whose contribution I listened with interest. I rise to speak to amendment 1, which stands in my name and that of other hon. Members from all parts of the House. It is an amendment on a variation of the theme: there is not a consensus, particularly among campaigners for fairer compensation for mesothelioma victims, that the current 75% figure is acceptable. Despite the excellent efforts of the noble Lord Freud and the Minister to bring this Bill before the House, I am afraid that there is still some disappointment that the level of compensation does not go far enough. My amendment seeks to increase the level of

compensation from 75% to 80%, and not to the higher percentages proposed by others. Although I recognise that 100% would be the most perfect outcome for victims, the truth is that the legislation would probably not be in front of the House today if that were the case and if that were the only option under consideration.

Although an extra 5% compensation does not sound very much, it is the equivalent of an average extra £6,000 to the victim, which is no small sum to someone trying to finalise their financial arrangements before they pass away. To those of us who seek justice on their behalf, that seems a much fairer figure, not least because they will be asked to give back 100% of the industrial disease and social security benefits that they have received as a consequence of getting mesothelioma, and that is estimated to be around £20,000 on average.

Much has already been said on that issue during previous stages of this Bill in both Houses. I will repeat what I said on Second Reading, which is that the noble

### **7 Jan 2014 : Column 217**

Lord Freud deserves praise for negotiating with the insurance industry and for raising the original figure for compensation from 70% to 75%. However, sources in the insurance industry told me that the noble Lord Freud himself wanted 80%, and therefore by moving this amendment today, I am merely reiterating the Minister's previous desire for a better outcome. Then, with the support from colleagues today, he could have a parliamentary mandate to go back to the industry to start renegotiating compensation levels.

The negotiations and their subsequent outcome were based around another figure—that of the cost of the scheme to the insurance industry being no more than 3% of gross written premium. The argument for introducing the arbitrary figure of 3% was to ensure that the insurance industry would not pass on to its own customers the cost of running the scheme. In its more recent impact assessment, the Government surprisingly stated:

“It is possible that insurers will pass the cost of the scheme onto customers via increased premiums. If it did happen the impact on customers would be relatively low, estimated at 2.46% on average per year on EL insurance premiums.”

Given that inflation is currently running higher than the estimated potential increase in employers' liability premiums as outlined in the impact assessment, I am pretty certain that the premiums will go up regardless of this scheme. That means that the insurance industry will incur no net loss as a consequence, especially as it will still receive the same Government funding incentive to smooth the first four years of the running of the scheme. The argument being put forward about the EL insurance premium rise is a bit of a red herring. The real debate is around the assumptions of the scheme. Under previous assumptions of legal costs, the scheme could have been extended to provide compensation of 80%. We have had that debate before. We had it on Second Reading and throughout the Committee stage, and the right hon. Member for Newcastle upon Tyne East has mentioned it again. Revised figures of costs—assumptions provided to the Department by insurance and personal injury lawyers—mean that 80% compensation would push the levy over a four-year period above the 3% figure, albeit marginally. However, over a 10-year period—the period I too prefer to look at given the longevity of the mesothelioma disease and when it is likely to occur—80% compensation is well below the threshold at 2.61%. Arguments over the precise nature of legal costs aside, albeit ones that were superbly made in Committee by my hon. and

learned Friend the Member for Sleaford and North Hykeham (Stephen Phillips), it seems incredibly unfair that two days before Second Reading in this House, assumptions were changed, and that was wholly for the convenience of the insurance industry. Unfortunately, that means that the victims of the disease will not get the extra compensation they deserve.

I have been warned that if my amendment were to be agreed, the insurance industry would walk away from providing the scheme. I am afraid to say that that is bunkum, and it would be incredibly foolish of the industry to do such a thing. It has highly paid public affairs advisers—I should know as I was one before I entered this House—who will be telling their bosses to read the mood music from the contributions to debates on this Bill in both Houses. There have been calls for the scheme

### **7 Jan 2014 : Column 218**

to pay out compensation of 110%, 100% and 90%. There have been calls for the legislation to extend to other asbestos diseases such as pleural plaques and to include those suffering from mesothelioma from secondary sources. There have been references to the profits made by the UK's £40 billion insurance industry and there have been expressions of disappointment in the long-term failure of the industry to deal with this matter prior to statutory intervention via this Bill.

Do I think the insurance industry will walk away from this Bill leaving tens of thousands of mesothelioma victims without compensation? We are talking about victims who contracted a fatal disease because they did the honourable thing and went to work to provide for their family and who need this scheme because of poor record keeping by the insurance industry and/or their employers. No, I do not think that will happen.

**Mr David Anderson (Blaydon) (Lab):** I congratulate the hon. Lady on what she has done and on what she is saying so far today. I hope that she is right, but does she not understand the track record of these insurance companies? They have challenged mesothelioma victims for decades, and I hope that we can stop them today because people are getting fed up with the way they behave.

**Tracey Crouch:** I am grateful to the hon. Gentleman for his intervention. Decades ago, the insurance industry would have held up its hands and said that, in hindsight, it had treated victims very badly. To be fair to the bigger players in the insurance industry, they have certainly tried, over the past five to 10 years, to improve the system of compensation for victims. They have set up the Employers' Liability Tracing Office and provided funding for research. Some of those bigger insurers have started to play catch-up for the mesothelioma victims. However, I recognise the concerns expressed by the Opposition over pleural plaques. As it happens, I was part of the insurance team that ensured that pleural plaques did not become a legislative issue in this House, and I stand by that decision today. That will remain a difference of opinion that we have on a specific asbestos-related disease. Where we do need consensus is over mesothelioma. It is a fatal condition and one that will kill somebody incredibly quickly and very painfully. I want to make sure that those victims who cannot trace their insurer or employer have access to the scheme and get the most amount of compensation possible.

**Andrew Percy (Brigg and Goole) (Con):** My hon. Friend is making an excellent speech. She said that people will be looking at this debate and, with that in mind, I hope that she

understands that I also want to support her amendment this afternoon. However, the impact of the £6,000 she mentioned—the additional 5%—on the people in my constituency who have been affected, or know someone who has been affected, by this, cannot be underestimated. I entirely concur with what she said on the figure, and I hope that the Minister will listen and consider how the £6,000 will impact on the people in our areas.

**Tracey Crouch:** I am very grateful to my hon. Friend for raising that issue. The people we represent share a similar profile and we both have former dockers in our constituencies who will contract mesothelioma in the future, so I am very grateful for his support. I know that the current and future victims will be grateful to him.

**7 Jan 2014 : Column 219**

**Mr Sheerman:** I know that the point about traditional employment and so on has been reiterated many times, but my dear brother, Robert—Rob—who died of this disease, worked in the research centre at Sunbury-on-Thames for British Petroleum, one of the leading science and technology companies in the country. As my right hon. Friend the Member for Newcastle upon Tyne East (Mr Brown) said, those people knew about the disease very early on. Does the hon. Lady agree that the insurance industry too often hides behind the trade association, the Association of British Insurers? We cannot get through to the real insurers as that very combatant trade association gives them cover.

**Tracey Crouch:** I am interested in the hon. Gentleman's first point about occupations. We must be very clear that this situation is not confined to the traditional working class, although it is more likely to be prominent as they were more exposed to asbestos than anybody else. Anyone who has been exposed to asbestos is in danger of contracting mesothelioma. On the hon. Gentleman's second point, he must recognise that there are 150 players in the insurance industry and it is only fair that they should have a trade association that represents them. When I recently looked through the ministerial meeting list, I noticed that although the ABI was meeting with Ministers it did so with the top four insurers by its side. There are representatives in such meetings of the individual insurers as well as the trade association.

**3.30 pm**

Let me go back to the question of whether the insurance industry will walk away from the Bill. I do not think that it will. It needs to be reminded that it will receive a £17 million taxpayer-funded gift to help smooth the running of the scheme for the first four years, followed by a £30 million loan. I think that that is rather ironic, given the fact that it will be part paid for by the victims through the recovery of benefits. The industry needs to be firmly reminded of that, not least because many people in this place could say what £47 million could be better spent on. We want to ensure that the mesothelioma victims get fair levels of compensation, but they will do so through Government-funded assistance to the insurance industry, which has been strongly criticised in the past for not doing enough.

Before the industry starts to cite pressures on finances because of flooding or economic circumstances—we can be sympathetic about some of the initial costs of the recent severe weather—it is important to remind it that the scheme has been long in the making. Risk analysis was done long before the Bill was introduced and reserves were allocated accordingly, which was a point made by the hon. Member for Stretford and Urmston (Kate Green). That is what good companies do: they manage risk for others and for themselves.

Let me, if I may, make a party political point. We should remind the industry that since the coalition was formed it has had its corporate tax rate cut and its employee costs reduced, that steady growth in the economy has created stability, particularly for those on the FTSE, that share prices have increased and that thousands of small businesses have been created, all of which will require some form of employers' liability insurance. Business is good for the insurance industry at the moment.

### **7 Jan 2014 : Column 220**

I will defend the industry for many things, but, at a time when business is growing and returns on investments are being maximised, to threaten to walk away from a scheme providing victims with compensation that they should have been able to receive through the civil procedures but cannot, through no fault of their own—a scheme that will be funded through £47 million of Government money—is utterly outrageous. I am absolutely certain that that decision would come back to haunt them later and, based on other Members' contributions today and in the Bill's earlier stages, would have far more punishing consequences than that proposed in the amendment.

I will press my amendment to a vote this afternoon. I had hoped that I would receive the backing of the Government but, regardless of the outcome, I urge the Minister in this House and the noble Lord Freud to return to the issue of increasing compensation for victims. If it remains at 75%, the question will not be over and could be returned to in the future. However, with cross-party consensus on 80%, not only would it be harder to increase compensation levels down the road and in the future, but it would be a welcome and worthwhile compromise for politicians, support groups and those most affected by this dreadful disease, the mesothelioma victims themselves.

**Jim Sheridan:** I speak as a former ship worker on the Clyde. I have seen at first hand the pressure that was brought to bear on employees who worked in and around asbestos and whose jobs were threatened if they refused to work with it. It was only with the support of the trade unions and the health and safety part of those unions that we managed to get that pressure taken off the employees and to give them the protective clothing they had so long deserved.

I do not think that I am the only person in this House who has had a visit from someone who has been diagnosed with mesothelioma. We can see the desperation in their eyes when they know that they do not have long to live and the only thing that keeps them going is the fact that they can get some compensation, not for them but for their families. That is the important thing. The most graphic description of mesothelioma I have heard was from a victim who told me that it was like a tree growing inside you which eventually chokes you to death. That is the kind of death we are seeing, and it is somewhat disappointing.

My right hon. Friend the Member for Newcastle upon Tyne East (Mr Brown) talked about Scotland and pleural plaques. The Scottish Government took a different road and were successful in the courts in pursuing compensation for those with pleural plaques, but just for the record, no one in Scotland has received a single penny of that compensation because the insurance industry has now taken the matter through the European Court of Human Rights.

People will have different views of the insurance industry, but I personally have a very toxic view. That is based on my own experience some years ago in Scotland, where there is a

different legal system. Then, when people were diagnosed with any asbestos-related disease, their claim died with them. The insurance companies would go to court and have sitting beside them a doctor who would, from a distance, try to gauge how long the person had to live, and the companies would then find some sort of technical reason to get their case put back

### **7 Jan 2014 : Column 221**

or delayed in the hope that they would die and their claim would die with them. That is the reason for my toxic view of the insurance industry.

I spoke about the cut-off date on Second Reading, and my opinion has in no way changed. The consultation in 2010 was extremely clear in its intention, and the industry's very competent public relations people—perhaps the hon. Member for Chatham and Aylesford (Tracey Crouch) might have been one of them—picked up on this issue immediately. There is no doubt that the companies have been preparing for the scheme since the day the consultation was launched, and there is no reason why we should be letting them set the agenda in this way. The rights of victims are being completely ignored by the arbitrary setting of a cut-off date in 2012. The argument that basing the legislation in 2010 is

“unlawful interference with insurers' property rights”

does not give due importance to the rights of the victims. Having more money should not buy someone more rights, though under this Government that seems to be exactly the case. Nor do I believe the argument about the initial spike in payments. Insurance companies would have put money aside to alleviate the risk of making those payments, and even if they did not, the payments would be a drop in the ocean for this multi-billion-pound industry, which can easily afford to make them.

Between February 2010 and 25 July 2012, an extra 700 people will have died as a result of mesothelioma, and they should not have had to suffer due to the insurance industry dragging its feet. This proposal is affordable within the Government's figures and, more importantly, it is fair.

**Mr Iain McKenzie (Inverclyde) (Lab):** My hon. Friend and I come from the same area of the Clyde, which has had a long tradition of shipbuilding, and we know that victims of asbestos-related illnesses are still being identified. Does he agree that perhaps the insurance industry is looking ahead and estimating that what we had hoped would be the peak in the number of these victims is not the peak? In fact, still to this day, GPs on the Clyde actively ask people who go to see them with chest complaints, “Where did you work? Did you work near asbestos?” Is not that why the insurance companies are so reluctant?

**Jim Sheridan:** My hon. Friend and neighbour is absolutely right. He, like me and many people who worked in the industrial sector, whether it be in the shipyards, in the mines or wherever, live with the constant fear that a cough could develop into something more worrying like mesothelioma. In the industrial sector, regardless of the part of the country we come from, that is something we have to live with on a daily basis.

**Mark Lazarowicz (Edinburgh North and Leith) (Lab/Co-op):** In my constituency the kinds of activities that tended to provoke this condition, such as dock-related activities,

declined some time ago. That was not, however, many decades ago, so this is still an issue for people in my constituency. Does my hon. Friend agree that months, let alone two years—

**7 Jan 2014 : Column 222**

**Mr Deputy Speaker (Mr Lindsay Hoyle):** Order. Unfortunately, interventions have to be very short, because others want to speak. If interventions could be shortened, that would help.

**Jim Sheridan:** My hon. Friend is absolutely right. The docks are another area where mesothelioma was a constant threat and problem, particularly in places such as Leith, which is a big dock area.

On compensation, as I have said, I think the numbers are still to peak. There is a mesothelioma problem in schools and I think the problem will only get worse. It will be interesting to hear what the insurance companies have to say about teachers and others in schools who will suffer from this horrible disease.

On the levels of payment, it is totally unjust and unfair that victims of mesothelioma whose documents were either lost or destroyed will receive less than 100% of the average compensation. In an earlier debate we argued that the level should be set at 90% of the average. A precedent has already been set in the Financial Services Compensation Scheme, which covers the liabilities of insolvent insurers in circumstances involving compulsory insurance.

We support the cross-party amendment 1, which would set a lower level of 80%, although it is not ideal. I think that amendment 4, which would set the level at 100%, is the fairest solution and perhaps that is what we would seek in a different and better political environment. I think that the insurance companies, as opposed to the victims, could agree to set the level at 80%. The 90% level was already affordable, as it was still within the 3% levy on gross written premiums with which not only the Government, but the industry, is happy. If we set the level at 80%, I am sure the insurance industry would not only be happy, but feel as though it had got a good deal. At least it would put an extra £6,200 in the pockets of victims. Morally, 80% is the absolute bare minimum the Government should be aiming for.

**Andy McDonald (Middlesbrough) (Lab):** My hon. Friend is making a good point about the moral limit, but does he agree that the whole concept of contributory negligence and the apportionment of damages suggests that the victim is in some way responsible for the damage caused? That is anathema in these circumstances: these people are totally and utterly innocent, but they will walk away with less than what they truly deserve.

**Jim Sheridan:** My hon. Friend is absolutely right. We now live in a society in which some of this country's most vulnerable people are being asked to pay the price with regard to not only mesothelioma, but other areas relating to quality of life.

**Grahame M. Morris (Easington) (Lab):** My hon. Friend is making some excellent points. The clawback provisions mean that victims will have to pay back 100% of previously paid benefits. Is there not an inconsistency in the fact that the state seems to have a greater demand of 100% clawback, whereas the victims will get only 75% of the compensation due to them?

**Jim Sheridan:** My hon. Friend is absolutely right. Do we really aspire to live in the kind of society that does that to people? They needed those benefits for various reasons, but now 100% of them will be clawed back.

**7 Jan 2014 : Column 223**

**Sammy Wilson:** Is it not even more disgusting that the money clawed back is then given in compensation to the insurance companies to reduce their costs?

3.45 pm

**Jim Sheridan:** As they say in the best pantomimes, the hon. Gentleman is absolutely right—you could not make it up. It is incredible that the clawed back money goes to the insurance company.

To move on to ring-fencing and the 3% levy, insurance companies will get a good deal from the Bill, as I have said. Even if they keep paying a 3% levy until no more mesothelioma cases exist, it will be a good deal. It is therefore completely right that the 3% should be ring-fenced. Colleagues have already mentioned many ways in which the Bill falls short, but the extra money that ring-fencing the levy gives could pay for some of those shortfalls: to compensate victims of other asbestos-related diseases, to research a cure or, indeed, to increase the fund payments to a much fairer 100% of the average compensation. The insurance industry well and truly expects to pay 3%, and is financially prepared to do so. There is no reason to let it get away with paying less.

I well understand that the Minister, who is a decent man, claims to have done his best on the issue, but I still think that there is room for improvement. I encourage him to continue to pursue insurance companies for a better deal for those who deserve it—the victims and their families.

**Andrew Bingham (High Peak) (Con):** I do not intend to delay the House for too long. Many of the points I wanted to make have already been very eloquently made by my hon. Friend the Member for Chatham and Aylesford (Tracey Crouch). I pay tribute to the Minister and the Government for introducing the Bill, which I support.

As has been mentioned, mesothelioma is an industrial disease, but I assure the House that in my constituency—constituencies do not get more rural than the rolling hills of north Derbyshire—the incidence level of mesothelioma is higher than the national level owing to some of the industries operating there. As all of us in the Chamber and more widely know, through casework and from friends and relations, mesothelioma is a truly dreadful condition that causes great pain and is incurable.

I added my name to amendment 1, which I am now speaking to, because I think that 70% to 75% represents progress. In an ideal world, 100% would be the ultimate progress that we would want. However, the 80% figure is a good compromise: it is viable, doable and, as other hon. Members have highlighted, achievable. I do not think that insurance companies will walk away. In the world we live in today, more companies are concerned about their reputation, and given the cross-party strength of feeling in the House about compensation for mesothelioma, it would be reputational suicide for insurance companies to walk away now. I

think that we can squeeze that extra 5% out of them, which would be better in the pockets of the victims of this dreadful condition than anywhere else.

I am proud that the Government have gripped the issue, but if we agreed to amendment 1, they could grip it just a little harder. That extra grip would make the mesothelioma sufferers' prognosis that little bit better

#### **7 Jan 2014 : Column 224**

and I for one, as a Member representing a constituency affected by this dreadful condition, would be that little bit prouder and stand that little bit taller after what I had done here today.

**Simon Danczuk (Rochdale) (Lab):** Like other hon. Members, I start by mentioning my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins), who has done much on this subject. He organises an annual memorial event in Greater Manchester, in the city centre, and as a Greater Manchester Member of Parliament I have always been pleased to attend, so I thank him for his work in that regard. I pass on my best wishes to his family, and I hope he will be well again soon.

Hon. Members will be aware that Rochdale was home to the world's biggest asbestos factory—Turner and Newall dominated the town for many years—and it is fair to say that the legacy of asbestos still haunts our town and its people. Walking around my constituency, it is hard to find anyone who has not been affected in some way by asbestos, whether through family members, friends or colleagues, many of whom have been affected by asbestos-related diseases. Asbestos destroys lives and breaks families. In Rochdale, it has left a community legacy in the form of a massive derelict factory site that nobody is prepared to remediate effectively.

The lack of justice and compensation for many of the victims of asbestos is a scandal that has lasted for far too long. I am pleased that the Bill is before us, but we must go further than what is proposed. I believe that the Bill falls woefully short of providing adequate compensation for the victims.

The Bill contains a number of arbitrary decisions that I think are designed purely to appease the insurance industry. First and foremost among those is the cut-off date for diagnosis, 25 July 2012, which my right hon. Friend the Member for Newcastle upon Tyne East (Mr Brown) mentioned. I have heard no credible argument for why it cannot be put back to 10 February 2010, when the original consultation started, as my right hon. Friend suggested. I understand that that would assist an additional 700 people. The argument must not just be about cost. However, it is my understanding that with that change, it would fit within the 3% levy if it was taken over the 10-year period.

Secondly, the Bill is very limited in terms of who it supports and helps. It is being spun as a victory for asbestos sufferers, but it is limited to covering just mesothelioma victims and it will not affect people who have come into contact with asbestos domestically. That is a cause for concern.

My final point is about the level of compensation. Frankly, 75% is insulting. We must remember that the Government were proposing a 70% limit. My opinion is that a fair level of compensation would be 100%, as my right hon. Friend the Member for Newcastle upon Tyne

East suggested. I am prepared to support an 80% level. That modest increase would at least give some comfort to the victims.

All those arbitrary decisions raise serious questions about the Bill. I get the impression that the Government are good at standing up for the strong insurance industry, but weak when it comes to standing up for the victims of asbestos.

### **7 Jan 2014 : Column 225**

I will finish by referring to the case of a lady called Mrs Nellie Kershaw. She started work as an asbestos spinner at the age of 12 in the Turner and Newall factory in Rochdale. In 1922, she became too sick to work and was diagnosed by a local doctor as suffering from asbestos poisoning. As it was an occupational illness, she was ineligible for sickness benefit from a local scheme to which she had contributed. Her husband, Frank, who was having to look after the couple's two children, pleaded with her employers for assistance. They refused to offer any help and she died in poverty on 24 March 1924. To this day, she lies in an unmarked pauper's grave in Rochdale cemetery. She was 33 years old when she passed away.

Nellie Kershaw was the first person in this country to be diagnosed with asbestosis. She and her family were left with absolutely nothing. Fast-forward 90 years and we are here today quibbling over who should and who should not receive compensation and over how much the compensation should be. As it stands, the Bill does the minimum possible to support asbestos victims.

**Mike Penning:** I am listening intently to the hon. Gentleman's comments, but I am really disappointed by some of them. I understand him wanting to get more compensation, but the Bill would not be here today without Lord Freud fighting to get time, and this Government getting it on the statute book, which, as the right hon. Member for Newcastle upon Tyne East (Mr Brown) said, is difficult and had not been done previously. Most people who know me know I do not do party politics, but I cannot sit back and say that we have not done our bit because we are doing our bit—that is why we are here today.

**Simon Danczuk:** I accept the Minister's intervention and I am not trying to be overly party political about the issue. As I said earlier, I accept that progress has been made, which I welcome, but I am pushing for more intervention from the Government, and for a better compensation scheme for my constituents and those across the country who deserve more from this Bill. I hope we can achieve that today.

**Ian Lavery (Wansbeck) (Lab):** It has been a decent debate this afternoon. I am not sure whether we are here to discuss how perfect the Bill could be, or who would be the best recipient of the measures in it, but I think we are here for fairness and justice for individuals who have suffered greatly as a result of mesothelioma. There may be a difference of opinion about who we should be looking after—should we be looking after the insurance companies, or should we look after those who are suffering greatly as a result of mesothelioma?

Right through the Bill, from First Reading until now, the costs of the insurance companies have dominated the debate, yet we rarely discuss the individuals who have suffered and who have died. We rarely discuss the victims or those who are perhaps sitting on the sofa at home watching this debate now. As I am sure everyone is aware, once someone has been diagnosed

with mesothelioma, they have a very short time to live. I just want people to be fair; I am not asking for the world, but I think that as politicians we have the right to be fair

## **7 Jan 2014 : Column 226**

to ordinary people. Is anything wrong with being fair? Sometime we short change people, which is not just or fair.

My hon. Friend the Member for Paisley and Renfrewshire North (Jim Sheridan) spoke in a previous debate of someone who went to see him and said, “This is horrendous; it is like a tree growing inside, and it eventually chokes you. It eventually kills you.” That is what we should be thinking about and discussing in lots more detail, not the fact that insurance companies have come forward with a potential 3% levy. What about those who are dying? What about the people who are suffering? Once they have been to the doctor, their life has ended. Let us start discussing those people.

**Mr Anderson:** My hon. Friend is being his normal forthright self. Does he feel—as I do—that he is in the middle of a negotiation, when, like me, he expected to be making the law of the land? We are basically saying that we make the law of the land if the insurance companies will agree to it. It is unbelievable.

**Ian Lavery:** I totally agree with my hon. Friend. I have been through the Bill and I am puzzled by the fact that there is a threat—if we do not agree to something that is a lot less than what people deserve, the insurance companies will walk away. I always thought that if the Government pushed through a Bill that said 100%, it would be 100%. If that is what the Bill says, surely that is what it means and what the insurance companies will have to do. From what has been said throughout the stages of the Bill, it appears that the insurance companies are running this, not Parliament. That concerns me because there have been great discussions and great debates on all sides, but I am yet to hear any persuasive reason why the victims should not receive 100% of their compensation.

**Grahame M. Morris:** My hon. Friend is making a powerful argument. The very lifeblood of insurance companies is the assessment and measurement of risk, so would it not be reasonable to have expected them, from the start of the consultation in 2010, to set aside a contingency fund to meet the full liability of the victims’ claims?

**4 pm**

**Ian Lavery:** That possibly should have been considered, but we must remember that these insurance companies do not lack finance. They have had the money already, so why should we accept that those victims and sufferers—and their families and carers—should have anything less than 100% compensation? The claimants under the scheme have to meet the same standards of evidence and burden of proof as those who make successful civil claims. The only difference is that those who make a successful civil claim get 100% of the compensation.

The benevolence of insurers has been raised. Should we clap our hands or embrace the insurance companies because they have done a marvellous job with regard to the people we represent? Should we class them at this time of year as industrial Santa Clauses with presents

for people who might not be here next year? Should we applaud the companies' efforts? I think not. The insurers collected premiums in full and invested them for decades.

**7 Jan 2014 : Column 227**

**Mike Penning:** The hon. Member is making a passionate speech, as he did on Second Reading, and he is rightly standing up for his constituents. I have to tell him that the insurers did not come happily to the table to have this discussion. When the discussions with Lord Freud started, they were told to come, and the negotiations were based on what we could get agreement on without putting a further burden on business—in other words, the 3% levy does not go on to new business. I heard what my hon. Friend the Member for Chatham and Aylesford (Tracey Crouch) said, and we will take a close look at that. We have to look at the context. Nothing had been done for so long, but now something is being done and the insurance companies are not happy about it.

**Ian Lavery:** Every hon. Member who has spoken today understands that the insurance companies had to be dragged to the table, because contribution after contribution has cited examples where the first thing an insurance company does after an individual has been diagnosed with mesothelioma is run away and deny it for as long as possible in the hope that the problem goes away. In Committee, I applauded the work done by successive Governments in getting the Bill to this stage. We are just a little too far away from this Bill being absolutely fantastic for mesothelioma sufferers. Three or four points mean that it is nowhere as good as it could be, and some great arguments have been made today on how to bridge the gap.

I return to the point that the insurance companies are not companies that are just surviving. They have made profits over generations—10, 20, 30, 40 and 50 years. They took the premiums and invested the money. Never mind contingency funds, the funds should be there—unless, of course, the money has been paid out in dividends or in other ways. That means that the money that should have been there for mesothelioma sufferers is not there any more because it has been given to shareholders. That is simply a point. The insurers paid out nothing on the untraced policies that they lost or destroyed. Again, that is not the fault of the people who are suffering—it is not their difficulty. Remember, the only thing wrong that they have done is to attend the workplace. For goodness' sake, we cannot forget that that is the main point.

**Dr Alan Whitehead (Southampton, Test) (Lab):** Does my hon. Friend accept that in terms of events in the workplace we are talking about identical events with a different period of maturity into full-blown mesothelioma? Some people with identical circumstances will not qualify, while others will. Will he speculate on the issues that that may cause? Someone may have been through the same process as the person sitting next to them in the workplace—in the case of Southampton, handling blue asbestos in the docks, bailing it up and throwing on to the dockside—with the disease appearing many years later over different periods for different people—

**Mr Deputy Speaker (Mr Lindsay Hoyle):** Order. We need shorter interventions—there are quite a lot of other speakers to get in. Interventions are important, but they must be shorter.

**Ian Lavery:** This issue has been explained. This is not just a shipyard, mining or other heavy industry problem; this disease can be contracted in the classroom. We really

**7 Jan 2014 : Column 228**

need to look at the position with asbestos in schools. I fear that not enough data have been kept on children over the years. People never believe, 30 or 40 years later, that they have mesothelioma. They think back to what type of employment could have caused it, but it could have started in school. I accept my hon. Friend's point.

Lloyd's made £2.7 billion between January and June 2012. Royal and Sun Alliance made £233 million last year. Aviva, between January and June 2013, made £605 million. That is just three companies. They are awash with finance. Believe me, Mr Deputy Speaker, they intend to continue to be awash with finance.

The regulatory impact assessment estimated that approximately 6,000 mesothelioma sufferers lost about £800 million in compensation due to untraced insurance. If we add that to the cost to the victims of other asbestos diseases, and the deal cooked up between the Government and their friends in the insurance industry, that represents a saving to insurers of about £1 billion. That is absolutely scandalous.

**Mr Anderson:** Does my hon. Friend agree that in 2007, as a result of the decision on pleural plaques, the insurance companies were handed a windfall of £1.4 billion that they were not expecting?

**Ian Lavery:** That is absolutely true, and that strengthens the argument put forward with regard to the apparent finances and wealth of the people who are threatening to walk away if they are asked to pay the right amount of compensation, or even more than 75% of it.

There are other examples where compensation has been paid at 100% or at 90%. The pneumoconiosis scheme in the Pneumoconiosis etc. (Workers' Compensation) Act 1979 pays 100% compensation and the Financial Services Compensation Scheme paid 90% to asbestos sufferers, so there are examples.

On the cut-off date, which my hon. Friend the Member for Southampton, Test (Dr Whitehead) mentioned, why on earth is 25 July 2012 being suggested? Why not February 2010? In other case law, compensation has been paid from the guilty date of knowledge. In this case, that would mean paying compensation right back to the 1960s, but the cut-off date is 25 July 2012, and that causes huge problems. I understand that with a cut-off date there will always be losers—that is a matter of fact—but the 25 July cut-off date was when the written statement was made on the Bill, whereas the consultation started way back in February 2010. That would seem to be the most appropriate cut-off date.

**Mike Penning:** May I politely correct the hon. Gentleman? The date in 2010 was when the previous Administration issued the consultation document, not when the Bill started.

**Ian Lavery:** Yes, the consultation document was issued in 2010, but the cut-off date in the Bill will be 25 July 2012. I cannot see any rationale for that. I cannot understand the reason for it. Eligibility should at least commence with the publication of the consultation document in February 2010, but, as I say, there are strong arguments for going back even further.

It comes down to whose side we are on. As politicians, we face tough choices every day of the week. Are we on the side of the victim who will sadly pass on within

## 7 Jan 2014 : Column 229

months, or are we on the side of the insurance companies, which, as the Minister said, had to be dragged to the table to pay any compensation at all? The insurance companies are getting £17 million from the Government just to start the scheme, and it has been agreed they will get a further £30 million from them through some sort of borrowing arrangement.

In conclusion, when someone with mesothelioma who is soon to pass on comes to one of our surgeries and we explain that the insurance companies have only to pay 75% compensation, I wonder what their reaction will be. It is not fair, it is not just, and it is not acceptable. Wherever there is 100% liability, there should be 100% payment.

**Sammy Wilson:** It is a privilege to follow the hon. Member for Wansbeck (Ian Lavery). He has brought the human side of this debate into the Chamber, which is important, because while we can throw around the percentages that insurance companies will have to pay, cut-off dates and so on, we need to remember that we are dealing with people who have suffered greatly as a result of their employers' negligence, not their own, and whose suffering will inevitably result in death.

At the outset, I also pay tribute to the right hon. Member for Wythenshawe and Sale East (Paul Goggins), who is fondly remembered in Northern Ireland, where he served as a Minister. Since he left office, he has always taken a great interest in the affairs of Northern Ireland. I also pay tribute to the Minister, although I am critical of much of the Bill. I fully understand the pressures he came under when introducing it.

The insurance companies are not easy to deal with and when it comes to paying out, they are bullies. I had a similar experience in Northern Ireland when we were taking through legislation to overturn the House of Lords decision on pleural plaques. Officials advised that we should not do it as we would have a hard time. The insurance companies jumped up and down, threatening all kinds of legal action. They threatened to challenge the legislation in Northern Ireland; the argument was that we would be raising expectations and that the measure would be delayed for years. But at the end of the day, when it was seen that there was a determination to push it through—and it did go through—it was, ironically, the Attorney General for Northern Ireland who challenged it in the courts, and lost. [Hon. Members: “Your friend?”] My friend, yes.

4.15 pm

**Mike Penning:** I have had my own experiences with the Attorney General when I was a Minister in Northern Ireland; I am sure other colleagues have as well. The difference between what is happening here today and what happened in Northern Ireland was that we have done a deal with the insurance companies before proposing the Bill rather than, as in the negotiations on pleural plaques, there not being a deal, so the legislation had to be forced through. That is the real difference; we have an agreement that will not affect businesses or premiums and will allow us to get the money through.

**Sammy Wilson:** I want to come on to that agreement. As the hon. Member for Wansbeck (Ian Lavery) said, at the end of the day this Parliament sets the rules by

## 7 Jan 2014 : Column 230

which insurance companies and everybody else must abide. I understand that the Minister has had the discussions with the insurance companies. I have to say that I think that the companies have come out with a very good deal. Do not forget; despite the fact that we are dealing with people who perhaps cannot trace where the insurance was with their companies, that does not mean that, in most cases, the insurance was not paid. The premiums went to the insurance companies. They benefited from the money and they have not paid it out when the claims were made. This is not a case of there never being any insurance paid, in many cases. In most cases, the insurance was paid and the insurance companies have escaped.

Secondly, as has been pointed out, as a result of House of Lords decisions and other decisions on claims that could have been paid for pleural plaques, for example, the insurance companies have got a windfall. We can debate the size of that windfall but figures up to £1.4 billion have been thrown around. On top of that, the Government will underwrite part of the cost; £17 million plus another £30 million loan to them. Then, the companies will only have to pay out 75%, and 50% of the people who should have been covered—because they did experience health problems as a result of exposure to asbestos—are not even covered. I reckon that that is a very good deal for the companies. If this House were to say, “We think that the deal struck is overly generous and we are going to make amendments to the Bill to compensate for the overly generous deal that was struck,” I doubt very much that the insurance companies would walk away or that they would challenge it, especially as the mood of the House is that many people who should have been included in this are not, and that there are levels of compensation that should have been paid that are not being paid. Those are the kinds of arguments that I have found persuasive when listening to the arguments for the amendments.

The Minister is the one who has sat face to face across the table with the insurance companies. It is his judgement that the insurance companies will not buy any strengthening of the Bill. Given the generosity of the deal and that insurance companies try to eyeball Ministers and see who blinks first, it is my judgement that if the Government stand firm, we can get a better deal for those who suffer enormously as a result of negligence.

**Ian Mearns (Gateshead) (Lab):** Surely the nature of the insurance business in this respect is that the risk is spread over a whole range of different liabilities. The very fact that the insurance companies have done that means that they should pay up when they ought to. They are not doing so; they are trying to wriggle out of it.

**Sammy Wilson:** I wanted to come on to that point, so I will jump to it now. The risk is, of course, fairly minimal in any case. First, it has already been covered and, secondly, I heard the Minister say that this cannot be passed on through additional premiums on employers’ liability insurance. No Minister can guarantee that when insurance premiums go up, some of the marginal increase is not to enable the additional costs to be recouped by the insurance industry. I do not know what kind of scrutiny of employers’ liability insurance premiums the

**7 Jan 2014 : Column 231**

Minister intends to introduce to ensure that the costs are not passed on, but in any case, as the hon. Member for Chatham and Aylesford (Tracey Crouch) has pointed out, the insurance companies will already have made provision for this legislation.

**Ian Paisley (North Antrim) (DUP):** My hon. Friend is making a compelling case. He is absolutely right about how the insurance companies will operate in this field. They not only insure the initial risk, but sell it on. We can be assured that they are definitely covered, and I believe that the Minister should take cognisance of that in making his decision.

**Sammy Wilson:** I thank my hon. Friend.

Let me deal with the two amendments that deal with whether the compensation level is acceptable. For 28 years, I represented east Belfast—the inner part within the shadow of the shipyard—on Belfast city council, and I saw and represented, at disability living allowance tribunals and so forth, many people who had suffered as a result of exposure to asbestos in the shipyard. I have seen the suffering that they went through. I have gone into their houses and seen people who could hardly walk across a 12-foot wide living room, who could not climb the stairs and who knew that they were in for a horrible and painful death. Those are the sort of people we are talking about, and that is the outcome of the exposure to which they have been subjected. That is what we are dealing with.

I must say that I find it grossly offensive that people who qualify for 75% compensation under this scheme will have 100% of their benefits taken from them, yet that will be paid back to the insurance companies to try to “relieve the burden” on companies that already have the money to cover the costs. We should bear that in mind when we look at amendments 1 and 4, which provide for increasing the level of compensation.

**Jim Shannon:** We are very much focusing on what happened to the individuals who had the disease, but perhaps we have not focused enough on the ripple effect on the families that comes out of that. Does my hon. Friend agree that it is not just individuals, but families and wider family circles that are involved, and that because of that, the squeeze should be put on the insurance companies to ensure that they pay more? Should not the Minister do that as well?

**Sammy Wilson:** We should, of course, bear in mind what it is like for any wife, husband or child who sees their father, mother or son going through the sort of agonies they have to endure when they die from this disease.

Let me deal with the issue of the cut-off date. I understand that cut-off dates are difficult: how should we choose them? No matter what is chosen, some people are going to feel aggrieved or short-changed. The proposer of the amendment spoke about a range of cut-off dates, going right back to before the war when people first knew that exposure to asbestos led to a terrible disease and death. However, there must be some logic to the cut-off dates that we set, and, in seeking that logic, we should be asking how we can apply it in order to encompass as many people as possible.

#### **7 Jan 2014 : Column 232**

Although I am not particularly happy with it, there is logic in the argument for a cut-off date of 2010, when expectations were first raised and the insurance industry was first notified, and when preparations for the payment of compensation could begin. The Minister said that setting a date of 2010 would add £80 million to the cost of the Bill, but I should like him to explain how he arrived at that figure. Given the 75%, the cost of payments will be £343 million over the next 10 years. It has been accepted—and I saw the Minister nod on a number

of occasions when this was mentioned—that the bulk of cases will arise in future years. How can we have a figure of £343 million for the next 10 years, during which we expect the bulk of cases to arise, and a figure of £80 million for the two years preceding 2012? Those figures simply do not add up. I should be happy to hear the Minister's explanation now, or, if he prefers, when he sums up the debate, but I suspect that the figure has been over-inflated and gold-plated in an attempt to establish arguments for not setting a date of 2010, presumably because the insurance companies will ensure that that does not happen.

**Mark Lazarowicz:** Like the hon. Gentleman, I could not see where the figure had come from. If the Minister has that information, should he not give it to us now in order to illuminate the debate?

**Sammy Wilson:** I will happily give way to the Minister if he can provide an explanation. However, I should point out to him that even if we did incur an additional £80 million—and I suspect that it will be nowhere near £80 million, because £80 million does not seem logical—according to the Minister's own figures, that would add 0.53% to the premiums that the companies would have to provide, while also encompassing, as we have heard, 700 people who are currently not covered by the scheme.

I realise that much of what I have said has been negative. I understand the pressures that the Minister is under, and I believe that the attitude that he has taken today shows that he genuinely wants to help those who suffer from this disease and will die as a result of it. However, I also believe that more can be done. I believe that logic is on the side of those who have tabled the amendments, and I trust that the House will support them when they are put to a vote.

**John Woodcock:** I shall speak only briefly.

I support all Members on both sides of the House who are pushing for more in this deal. As I said in an intervention earlier, Barrow contains the largest number of mesothelioma victims in the country. In most of those cases, the employer can be traced, because it was the Vickers shipyard. However, the families of the victims—wives who have seen their husbands die, children who have seen their fathers, and in some instances their mothers, experience that horrible, horrible death—are standing in solidarity with other families throughout the country, just as they have throughout the struggle for appropriate compensation that has continued for far too long.

Let us be clear about the fact that there can be no total fairness in this regard. If there were total fairness, people who went to work to do an honest job, to earn a living, to build ships and to work in industry would not have caught this disease and died in terrible ways, or

**7 Jan 2014 : Column 233**

caught a disease which is a ticking time bomb and which hangs over their lives now. Do we want to see premiums go up for current payers of insurance cover? No of course we do not, but it is absolutely clear that the victims who have waited so long for compensation should not be the ones who continue to bear the financial cost and penalty of this.

4.30 pm

The Minister and his predecessors deserve some credit for taking on the consultation that the previous Government set out. As I have said before in the Chamber, my hon. Friends who were here before me pushed for this for so many years under the last Government and they should have got further faster, but that was not for want of trying by Ministers.

**Steve Rotheram:** My hon. Friend is making a powerful point, but does he agree that premiums should not be increased, because premiums have already been paid to insurance companies who made huge profits and distributed them to shareholders? They have had the money and they should pay out, as that is what happens with an insurance scheme.

**John Woodcock:** My hon. Friend is absolutely right. Insurance companies now have an opportunity to do the right thing and to be seen to be doing the right thing, and I hope they take it.

I said the Minister deserved some credit but I think he has blinked too early in this negotiation. We have all said we recognise the pressures he is under, but there are a lot of Members of this House who know a bit more about negotiations than I do and they will all tell him, just as I am about to do, that people do not tend to go into a negotiation saying, “Well, we’re going to offer this now, but, to be honest, there’s a bit further we could go so just push us a bit more and we’ll be prepared to give you a bit more.” They always say, “This is the last offer and we are not going to go further.”

**Mike Penning:** If that was what happened I would agree with the hon. Gentleman, but that is not what happened. The figure started at 70 and now we are at 75. I have never blinked early in my life, and nor did Lord Freud.

**John Woodcock:** The Minister is absolutely right; it has gone up from 70 to 75, but the case has been made powerfully and strongly today that he can go further, to 80% at least.

**Mr McKenzie:** Does my hon. Friend agree that the deal that has been struck is allowing the insurance companies to renege on their commitment to these victims, and, not only that, but perhaps we are seeing a precedent being set for industries who are yet to leave their legacy of industrial victims?

**John Woodcock:** My hon. Friend is right and that does not leave the insurance companies doing sufficient.

Of course time is a factor, and we do not live in an ideal world. Today we will probably not achieve giving these people everything that ought to be given to them,

**7 Jan 2014 : Column 234**

and God knows they have waited far too long already, but we should all thank the hon. Member for Chatham and Aylesford (Tracey Crouch) for her tenacity. She has brought her considerable expertise to bear on this. I am sure her former friends and colleagues in the insurance industry think of her as a poacher turned gamekeeper—

*[Interruption.]*

Perhaps it is the other way round in this instance. Her expertise and inside knowledge has enabled the way in which the insurance companies work to be exposed in the House today. Some of us will struggle to see the logic of the 3% cut-off. If we stretch this and have a longer period for making the pay-outs over the next decade, even by the parameters the insurance industry has set itself, the figure will still come in at 3%.

We have shown today that we can go further and I really hope that, even at this late stage, the Minister will listen to the arguments made in this House and improve what is on offer for the victims of this awful, horrible disease.

**Mr Anderson:** I will try to keep my voice going if I can. I appreciate the work the Minister has done but this debate saddens me. We have got a situation where employer liability was paid to these insurance companies. They have had their money and they have run with it. People have died, and that was not a surprise. We have known for a century that asbestos kills people, so the fact that people would need compensation was not a surprise. The whole argument about the cut-off date, and that we cannot just spring this on the insurance companies, is nonsense. Looking back over the last decade, at the Fairchild rules, the Barker rules and the Rothwell rules, we can see that those were all cases in which the industry tried to get out of its responsibilities.

I raised this point with the Prime Minister on 18 December. I asked him to intervene to try to resolve the issue and he said:

“I will obviously look at what he has to say”.—[*Official Report*, 18 December 2013; Vol. 572, c. 732.]

I understand the time constraints that he has been under since then, but will the Minister tell us whether the Prime Minister has had a chance to look at the Bill? Where has the Prime Minister been to take that look? Has he been to the TUC? The trade unions have supported people through this morass for decades. Has he been to the asbestos victim support groups, including those who have been here today, who have real-life experience of these matters? Has he been to the employment lawyers who have sat with the people while they have died, and with their families?

**Mike Penning:** As a trade unionist myself, I would have expected the TUC to contact me for a discussion, but it has not done so. Other groups, including victim support groups have. This is an interesting situation. I would have been more than happy to speak to the TUC, but it did not knock on my door.

**Mr Anderson:** I thank the Minister for his intervention, but I am talking about what the Prime Minister has done since he made a promise to the House from the Dispatch Box to look into the situation, knowing that the Bill was coming back to the House today.

---

[Next Section](#)

<div></div>

- [Accessibility](#)
- [Cookies](#)
- [Email alerts](#)
- [RSS feeds](#)
- [Contact us](#)

## Site search

Site search

1. Search

## Primary navigation

- [Home](#)
- [Parliamentary business](#)
- [MPs, Lords & offices](#)
- [About Parliament](#)
- [Get involved](#)
- [Visiting](#)
- [Education](#)
  
- [House of Commons](#)
- [House of Lords](#)
- [What's on](#)
- [Bills & legislation](#)
- [Committees](#)
- [Publications & records](#)
- [Parliament TV](#)
- [News](#)
- [Topics](#)

You are here: [Parliament home page](#) > [Parliamentary business](#) > [Publications and Records](#) > [Hansard](#) > [Commons Debates](#) > Daily Hansard - Debate

[Previous Section](#)

[Index](#)

[Home Page](#)

---

Perhaps the Prime Minister has looked at what the employment lawyers have been dealing with over the years. Or perhaps he has done the other thing, and

**7 Jan 2014 : Column 235**

spoken to the people who have set the parameters for this debate: the people in the insurance companies. After all, he knows them all. They have bankrolled his party for decades, and they have bankrolled his constituency and those of hundreds of Conservative Members across the country. If a trade union had exerted that much influence, we on this side of the House would have been nailed to the wall. The Prime Minister knows the insurance industry well enough to have appointed the Association of British Insurers to lead the consultation. My hon. Friend the Member for Barrow and Furness (John Woodcock) talked about gamekeepers and poachers a moment ago. If this is not the most glaring example of that, I do not know what is.

At the end of the day, however, the Prime Minister could have gone somewhere much closer to look into this matter. If he had gone to his constituency office, he would have found a document in his in-tray that was sent to every one of us as constituency MPs. It is from the Asbestos Victims Support Groups Forum UK, and it is entitled “The Mesothelioma Bill [HL]—the Victims’ View”. I shall read out a few examples from across the country.

A constituent from Stockton North asks:

“After being robbed of my husband and father of two sons why am I now being robbed of compensation for my children?”

A constituent from Birmingham, Selly Oak states:

“I hope you never have to watch a loved one on oxygen fighting to get his breath, carrying it around to be able to live, or should I say exist. You have no idea what mesothelioma sufferers go through.”

A lady from Halesowen says:

“I watched my husband suffer for 3 years and then his horrific end to this illness. I’m sure that if the Ministers in Parliament witnessed this they would change the Bill without any hesitation”.

A lady from Eltham states:

“My husband was murdered. His name was Alan. My husband died aged 58 because he went to work every day in places riddled with asbestos.”

Mrs Barker from Staffordshire Moorlands says:”

“If you haven’t seen a man die of mesothelioma like I saw my husband in hospital then maybe you ought to go to a hospital. To see him go from a healthy active man to nothing, skin and bone, or anyone diagnosed with mesothelioma fall to pieces...is heart-wrenching.”

Mrs Bell from Telford states:

“My husband died within 2 months of diagnosis of mesothelioma. He was a strong, healthy man brought down to a weak, skeletal figure in that short time. Watching someone you love reduced to such a state is soul destroying.”

Mrs Barclay from Cannock Chase says:

“Come and spend time watching someone you love struggle to walk because of pain and lack of oxygen. My husband was 6 ft 2 in tall and now he is bent double struggling to walk.”

But the Prime Minister need not even have gone there; he could have gone to visit Mr Larrie Lewington, who lives in Witney and who said:

“I’m disgusted because 90% of the work I did was for people like the Ministry of Defence, police and hospitals. I now have this death sentence hanging over me for helping the government and they are trying to reduce the amount of money that I deserve. It’s an absolute insult. I could have had another 20 years left, everything else is perfectly healthy except this horrible disease. No amount of money will ever compensate what this has done to me and my family but it will help, and give me peace of mind that I can live without worry for the rest of my time.”

### **7 Jan 2014 : Column 236**

That is the real story here. It is not about whether the insurance companies can afford this or not; it is about the moral duty of the people in this House to do the right thing and not be told, “We might have to put the insurance bill up and some businesses will be wobbling.” We do things in this House every day of the week that put businesses, people, trade unions and every other organisation in the country under pressure, yet somehow we are saying that because we have this deal we should not put these people under pressure. There is absolutely no excuse for what is going on here today. The least that should be done is that we should start the scheme from 2010, because that is the last point when insurers can say, “We did not realise we were going to have to face up to this.” They should be made to face up to it. They have had their money and they ran with it. They should be caught, brought back to book and made to pay the proper compensation—anything below 100% is a disgrace.

The other clear disgrace—I am glad that the Minister of State, Department for Work and Pensions, the hon. Member for Thornbury and Yate (Steve Webb) is in his place—is the concept that somehow the Government can claw back 100% of benefits from people and yet give only 70% compensation. Where on earth has that come from? Where is the morality in that? Has anybody made the case to say that that is fair? It is obviously wrong. Somebody who goes to the courts because the employer is identifiable will get, on average, £154,000, whereas under this scheme the most somebody will get, even though they have to go through all the same hoops, except that they do not have an identified employer or insurance company, is £115,000. So they are already £39,000 worse off. Then 100% of the benefit they had is going to be clawed back because they are lying on their death bed—it stinks! We have to put this right. If it is not put right today, we need to continue on it because this is not the end of the matter. If it is not put right in this Parliament, I hope that when Labour comes to power in the next one we will resolve it.

**Hywel Williams:** It is a pleasure to follow the hon. Member for Blaydon (Mr Anderson) and all the other hon. Members who have spoken most eloquently about this terrible disease in support of the proposal made by the right hon. Member for Newcastle upon Tyne East (Mr Brown), which my party and I support. The hon. Member for High Peak (Andrew Bingham) said that it seemed unlikely that he would be so concerned about mesothelioma, given that he

represents a rural area, and the same applies to me; what does mesothelioma mean to us in rural Arfon?

In the early 1960s, a Ferodo factory was established just outside my home town of Caernarfon. The slate industry was dying at the time, and many slate workers were affected with the dust disease that led to the 1979 Act to which I referred earlier in an intervention. At the time, people believed in economic planning and the plan was to establish a large factory in the constituency to mop up the unemployment arising subsequent to the closure of the slate industry. Ironically, the factory was that of the Ferodo firm, which then used asbestos in the production of brake linings, leading to cases of mesothelioma in my constituency.

I will be brief because the arguments have been very well made this afternoon by a variety of hon. Members on both sides of the House, and I pay tribute to the hon. Member for Chatham and Aylesford (Tracey Crouch)

**7 Jan 2014 : Column 237**

for her interesting and well informed speech. As has been said, the scheme is being set up for individuals who have not only been diagnosed with a terminal illness, but who have been suffering the misfortune of being unable to trace their employer's insurers. It is plainly unjust that these claimants should automatically lose a significant percentage of the compensation that is rightly theirs through no fault of their own. The industry has argued that mesothelioma claimants should be encouraged to look at all other avenues before making a claim under the scheme. At a meeting I had some months ago with insurers, that point was made most strongly.

**Mike Penning:** It is the Government who are saying that a victim must do everything they possibly can to ensure they get a claim against an insurance company before they approach the scheme, because the scheme is a fund of last resort.

**4.45 pm**

**Hywel Williams:** I stand corrected. However, that argument was made to me by representatives of the insurance industry when I met them on this issue. I understand the argument that it would spur people on to take any action they can and that the fund should be a matter of last resort, but it seems that we are in danger of giving the impression that the Government are heedless of the bitter realities and the ferocity of this disease. I am sure that the Minister does not see it that way, but that is the impression that might be given to sufferers in the short time that is available from diagnosis to the outcome. There are also cruel pressures on their families. As we have already heard, sufferers can die very shortly after being diagnosed, which leaves their families with little time to seek more positive avenues of compensation. There is the matter of basic humanity here. Should we expect people to use their precious final months of life to pursue these legal means of tracing their previous employers' insurers when the fault is not of their making?

Briefly, let me repeat a point that I made in an earlier intervention. I referred to the slate industry and the fact that there is compensation for slate workers who are unable to trace the insurers of their former employers, and the compensation is paid at 100%. That is in respect of slate workers and workers in other industries, such as the jute industry in Dundee and the china clay industry in Cornwall.

I have heard the arguments and that there have been negotiations and that a figure has been arrived at, and I can see the practical politics of that. I will end by saying that whatever the technical aspects of the case, there is a moral issue here. I support amendment 4, tabled by the right hon. Member for Newcastle upon Tyne East, but if that fails, I will back the other relevant amendment.

**Kate Green:** I rise to speak to amendment 9 in my name and to support all the other amendments in this group. Amendment 9 seeks to enshrine in the Bill the 3% of gross written premium, which is the levy to be imposed on insurance companies to fund the mesothelioma payment scheme.

What I want from this amendment is a cast-iron guarantee that that levy will remain in place as long as the scheme continues. I am sure that the Minister feels

**7 Jan 2014 : Column 238**

that he has already given me that guarantee on at least one occasion—if not on many occasions. For example, he gave it in Committee on 10 December.

**Mike Penning:** May I reiterate the guarantee that I gave the hon. Lady in Committee and again today that it will stay at 3%?

**Kate Green:** I am grateful for that further assurance. On 10 December, the Minister said that 3% “is not going anywhere”. On 12 December, he said:

“Three per cent. is 3% and we have no intention of moving away from it.”—[*Official Report, Mesothelioma (Lords) Public Bill Committee*, 12 December 2013; c. 117.]

He has given us a further assurance this afternoon. He was a wee bit more equivocal, if he will forgive me for saying so, in his letter to Committee members on 17 December, where he said:

“We will look to ensure that the rate of the levy continues to be 3% of GWP...or equivalent to 100% of average civil damages.”

I am particularly concerned about this, because the Government’s impact assessment says that the levy will raise £371 million over 10 years, but I have subsequently learned from the economist at the Department for Work and Pensions that their modelling to arrive at that figure is based not on 3% “not going anywhere” but on how much it costs to meet payouts at 75% of average civil damages and the associated costs. In fact, the figure of £367 million in the impact assessment, which is what the Government have been relying on as the cost of the scheme that they say is affordable to the industry, means that the industry will face a levy of just 2.46% over 10 years. I know that the Minister has assured us that there will be a review after four years of the operation of the scheme, the amount the levy has raised and what can be done to increase the rate of payments beyond 75%. Indeed, the Minister has said to me that there might be other things that can be done, too.

If the industry can afford 3% today, it can afford 3% over the lifetime of the scheme. If the rate were maintained at 3% over the first 10 years of the scheme, it would raise £452 million rather than £371 million. That would be a further £81 million for sufferers that the industry is

telling us it can afford. Indeed, the industry thinks that the scheme will run for 30 or 40 years and talks about there being a cost of £30 million to £35 million a year, or £1.2 billion to £1.4 billion over the whole period of the scheme. The cost of 100% payouts going back to 1968 will be £1.1 billion, so 3% would allow us a much earlier start date and to increase the rate while leaving some money over for research or to cover other diseases.

It seems to me that there is plenty of scope to enshrine the level of 3% in legislation. The industry can afford to pay it and we have no reason to believe that it cannot or will not be able to afford it in the future. The industry says that that is an acceptable levy that would put more money into the scheme, if not immediately then in subsequent years. The industry will face the levy during the first four years of the scheme, so we are not asking for any extra money during those years. I cannot understand why that levy cannot be enshrined in the Bill today.

I strongly support amendment 5 on the start date, proposed by my right hon. Friend the Member for Newcastle upon Tyne East (Mr Brown), for exactly the reason given, for example, by my hon. Friend the Member

### **7 Jan 2014 : Column 239**

for Wansbeck (Ian Lavery)—the guilty knowledge which backdates, even on the most modest reading, to at least February 2010 when the Labour Government launched the most recent consultation. I would argue that since that date the industry has been on notice that there will be a scheme, and one for which it will have to pay.

The Minister says that one option in the consultation was to do nothing, and that might be true. Consultation documents always contain a do nothing option, but that rarely suggests that nothing will transpire. I do not think that the Government of the day, this Government or insurers have thought that doing nothing was the option on the table. Labour's consultation document specifically said that Ministers were

“persuaded that an Employers' Liability Insurance Bureau...should form part of the package”

creating a compensator of last resort. The industry has been planning for a scheme based on market share of employers' liability insurance, either historic or current. In its response to the Labour consultation, the industry concentrated on only two costed models and made it quite clear that that was the basis on which it expected the scheme to proceed.

It has been noted, although I think some of my colleagues were rather sceptical about the figure, that backdating to 2010 could increase costs by £80 million over 10 years. I think that figure is acceptable and understand why the Government have suggested it. We will see an early spike in claims during the first few years of the scheme and in later years, of course, we will expect the number of claims to reduce. I accept that backdating the scheme to February 2010 would breach the 3% levy by taking it to 3.56% over the first four years of the scheme, although it would be comfortably within 3% over the first 10 years. However, I strongly contend that for a multi-billion-pound industry that is receiving, as colleagues have pointed out, a £17 million gift and a £30 million loan from the Government, it could easily swallow that cash-flow issue, especially given that, as has been pointed out repeatedly this afternoon, it has been taking income in premiums for such policies over years—in fact, over decades. The money is already in its hands.

Let me remind right hon. and hon. Members that it is not possible to access the scheme unless the technical committee that will manage it takes a view that an employers' liability insurance policy was in place. It is not possible to access the scheme on the basis that there was no policy; there must be prima facie evidence that there was a policy and that premiums were therefore collected.

I understand and strongly sympathise with the points made by colleagues about the moral case for 100% of average civil damages to be the basis on which the scheme should operate. In fact, I believe that that is the Minister's, and everybody's, moral preferred position in relation to the victims of this horrific disease. I was very pleased to hear him put on the record—I think it is the first time he has had the chance to do so—that it was not his view that a figure below 100% was necessary to create some sort of incentive to sufferers to find an insurer rather than simply come to the scheme. I think we have all found quite offensive the suggestion that sufferers are in some way shopping around for the best deal. I am grateful to him for putting on the record that the Government do not believe that that would be the case.

### **7 Jan 2014 : Column 240**

I was struck by the point made by my hon. Friend the Member for Middlesbrough (Andy McDonald)—sadly, he is not in the Chamber at the moment—that because of well-established principles of contributory negligence, in paying out less than 100% to victims we albeit inadvertently send a message to them that it may be perceived that to some degree the suffering that they are facing is their own fault. That is an extremely unfortunate and unjustified message to send to victims who have contracted a disease simply from going out to work to earn a living and support their families. I hope we can all accept that whatever the constraints imposed by the deal that the Minister has been able to negotiate, the moral case for mesothelioma sufferers coming to this scheme is that they should be compensated in full.

The proposal by the hon. Member for Chatham and Aylesford (Tracey Crouch) is supported right across the House. We recognise that an 80% payout is a very reasonable compromise even within the terms of the scheme that the Minister has negotiated. There would be more money in the scheme if the Government and the industry stopped messing around with the likely legal fees that claimants would be facing. The fees were £7,000 and then went down to £2,000, which somehow magically allowed us to get the payouts up to 75%, and now they have gone back up to £7,000 again. The hon. and learned Member for Sleaford and North Hykeham (Stephen Phillips) is not able to join us in today's debate, but in Committee he made some very telling points about lawyers' fees. He is a well-paid lawyer, so I am sure he will forgive me for saying that he ought to know —[*Interruption.*] The fees were considerably more modest than his fees, as I think we all heard. He pointed out that any assumption in the basis on which legal fees were calculated within the scheme would create the danger of that becoming the tariff for its legal fees. The Minister undertook to have further discussions to see whether it would be possible to bear down on the level of legal fees.

I have since been advised by an asbestos victims support group that it has been asked to help to get mesothelioma victims to put pressure on their lawyers to keep the fees low. That is unacceptable. At a time when they are coping with an appalling illness and worrying about the future for their families, as they know they may not even survive to receive the compensation that they are due, the last thing they need is to get into an argument with their

lawyers about fees. I really hope that the Minister is able to do much more than simply pass the problem back to victims. Perhaps he will respond to that point in his comments.

Another issue that we discussed in Committee and have not yet got to the bottom of is that a whole range of other fees are covered by the levy, as we have debated during the passage of the Bill: the insurance industry's legal fees of £24.2 million, as distinct from the victims' legal fees; the scheme administration costs of £4.4 million; and the set-up costs of £1.4 million. In Committee, the Minister assured me that the industry's legal fees would be spent to the benefit of claimants and said he would get back to me if he was wrong about that. As he has not done so, I assume that those fees will be spent for the benefit of claimants. However, since he told me that on 12 December, I have been racking my brains as to how they would be spent for the benefit of claimants, and I have not been able to think of anything. I therefore hope that he will now be able to give me chapter and verse on exactly how those fees are to be deployed.

### **7 Jan 2014 : Column 241**

I also hope the Minister will be able to confirm that the sum set aside for setting up and administering the scheme will contain no profit element. This is of particular concern, because we know that the insurance industry itself is likely to bid to run the scheme. The Minister assured us in Committee that the process of appointing the body to run the scheme would be a competitive one. He said it would be based on value for money and commercial criteria, which is welcome, but those criteria would not necessarily preclude the administrator from making a profit: they might simply have to come up with the best price.

I am still in some about doubt about the position on arbitration costs and whether they are also being taken out of the levy. The Minister has not yet responded on that.

All those factors could serve to deplete funds that could otherwise be deployed to more generous payouts or to an earlier start date. It really is not good enough that we are still in the dark at this very late stage as to how much of the levy is earmarked for expenditure other than direct payments to victims.

**5 pm**

I welcome the debate we have had this afternoon and the attempts made by Members throughout the House to extend the generosity of the scheme to victims. I very much hope that the Minister will be able to give us some positive reassurances as to how that can be achieved, because I know he shares with all colleagues the wish for the scheme to be as generous as possible. It is strongly our view that there is every reason to believe—we have heard the evidence this afternoon—that the scheme can afford to be more generous than it is at present.

**Mike Penning:** I again thank colleagues from all parties for the tone of the debate and the measured way in which it has been conducted. I thank in particular the shadow Minister, the hon. Member for Stretford and Urmston (Kate Green), for her comments. I hope she will agree that we have been as helpful as possible to her, her team and other colleagues, not only through letters but through access to our team managers. I am slightly concerned about the technical questions she asked at the end of her speech, because I had hoped that they had

been addressed. If I am not able to address them all now, I will make sure that my team contacts her to do so in the near future.

We have heard some excellent contributions. As has been said several times, morally I am probably in agreement with nearly everything that has been said. These people are not at fault. They mostly went to work in good faith and they have contracted an atrocious, abhorrent disease that is fatal. They and their loved ones need this fund's support. There are no arguments whatsoever about that. Many of us are disappointed that we are still discussing this issue all these years after this terrible disease, its cause and its effects—it is fatal—were known about.

At the outset I thank the right hon. Member for Newcastle upon Tyne East (Mr Brown) for his very kind comments. I praise the work he did when he was a Minister to try to introduce a similar Bill. I also praise not only the support groups, but the trade unions, because without their pressure over the years we probably would not be in this position.

### **7 Jan 2014 : Column 242**

Having said that my moral position is absolutely as one with that of colleagues, I have to be a pragmatist. The Bill has come from the Lords and I am the Minister with responsibility for taking it through the House.

The hon. Member for East Antrim (Sammy Wilson) mentioned the figure of £17 million, but that is to get the fund going and to keep us below 3%. It is not being given to the insurance companies to do whatever they want with it. It is to get the fund running for four years. On the issue of 3%, the right hon. Member for Newcastle upon Tyne East was spot on to say that, although he was thinking of a 10-year period, I was thinking of four years, and that after that four-year period there will be a review.

I am restricted by the maths and our agreements. Could the insurers afford this? I have no doubt whatsoever that they could, but that is not the deal that has been struck. As has been said, the House could decide to set the limit at 80%, but I want this Bill to receive Royal Assent and for compensation to be paid in July. That is not happening at the moment and it has not happened for years. Could it be better? Yes, it could. I said as much on Second Reading and I have said so extensively elsewhere.

**Grahame M. Morris:** I agree with much of what the Minister has said. Will he respond to the point made by my hon. Friend the Member for Stretford and Urmston (Kate Green) about the 3% levy? If the advice is correct that the money will not be spent in the first years of the scheme, perhaps it could be redirected into medical research on the causes of mesothelioma.

**Mike Penning:** What I have said in Committee and today is that there will be a review after four years. I have committed to the 3% figure beyond the four years, as is absolutely right. I will come back to the £80 million that has been touched on in a second. Actuaries have looked at this very carefully and the Health and Safety Executive, for which I am also responsible, has looked at the costings. We will consider the review at the end of the four years, but there is no way in which the figure will drop below 3%. As far as I am concerned, that will flow through until we get 100% of compensation.

It is very important for hon. Members to understand that we are talking about 75% of the average, which means that some people will be worse off—I fully admit that—but that some people will get more than they would have done if they had been able to trace their insurer or employer and go through the scheme. That is an interesting parallel. The percentage is an average, and in working with an average some will be on one side of the line and some will be on the other side of the line. I know that it is really difficult for those on the wrong side of the line in theory, but there will be people on the other side of it.

Where should the arbitrary line be? Of course I could say, as I did in Committee, that the consultation issued by the Government before the last election included a proposal to do nothing. I accept that there is a proposal to do nothing in most consultations, but it was there. I do not, however, think that that is the biggest issue; the biggest issue is how we stay within the 3% over the period and within our financial obligations. That is the position that I am in.

### **7 Jan 2014 : Column 243**

I cannot, obviously, support the 100% figure. I pay tribute to my hon. Friend the Member for Chatham and Aylesford (Tracey Crouch) for her work on the cross-party group, including before she entered the House, but, sadly, I cannot accept 80%. We have discussed that, and I think that she understands why. I need to make sure that we stay within the realms of what we have agreed and get the Bill through the House and on to the statute book.

**Mr Anderson:** I regret to hear what the Minister is saying. One thing he could do is to change the clawback from 100% to 75%, which would at least give people a little more money.

**Mike Penning:** Some things are out of my hands, and such is the legal situation in relation to clawback. I cannot change that through the Bill. It just happens: if someone gets compensation, there is clawback on it at 100% because taxpayers' money is used to pay the compensation.

**Bob Stewart (Beckenham) (Con):** From what the Minister is saying and the feeling of the House, it may well be that the Bill is just a work in progress. Are we collectively agreed—the Minister, in particular—that we may well have to revisit the Bill properly after, say, three years and try again to give decent compensation to everyone?

**Mike Penning:** That is exactly what we are doing because there is a four-year review. It was announced in the other place, and I talked about it on Second Reading and in Committee. We are committed to the four-year review, which I know we will work on.

All the amendments would affect the speed at which the Bill goes through, because if we amend it today, it has to go back to the other House and there will be ping-pong. That would delay the compensation, which should be remembered by hon. Members who really want their constituents to get compensation. Along with the restraints on me within the agreement, that is why I will oppose the amendments. I hope that hon. Members will not press their amendments, so that we can make progress and get on to the next group.

*Question put,* That the amendment be made.

*The House divided:*

Ayes 232, Noes 303.

**Division No. 169]**

[

**5.9 pm**

**AYES**

Abbott, Ms Diane

Abrahams, Debbie

Ainsworth, rh Mr Bob

Alexander, rh Mr Douglas

Alexander, Heidi

Ali, Rushanara

Allen, Mr Graham

Anderson, Mr David

Ashworth, Jonathan

Austin, Ian

Bailey, Mr Adrian

Bain, Mr William

Barron, rh Kevin

Bayley, Hugh

Benn, rh Hilary

Benton, Mr Joe

Berger, Luciana

Betts, Mr Clive

Blackman-Woods, Roberta

Blears, rh Hazel

Blomfield, Paul

Blunkett, rh Mr David

Bradshaw, rh Mr Ben

Brennan, Kevin

Brown, Lyn

Brown, rh Mr Nicholas

Brown, Mr Russell

Bryant, Chris

Buck, Ms Karen

Burden, Richard

Burnham, rh Andy

Byrne, rh Mr Liam

Campbell, Mr Alan

Campbell, Mr Ronnie

Caton, Martin

Champion, Sarah

Chapman, Jenny

Clark, Katy

Clarke, rh Mr Tom

Clwyd, rh Ann

Connarty, Michael

Cooper, rh Yvette

Crausby, Mr David

Creagh, Mary

Creasy, Stella  
Cruddas, Jon  
Cryer, John  
Cunningham, Alex  
Cunningham, Mr Jim  
Cunningham, Sir Tony  
Curran, Margaret  
Dakin, Nic  
Danczuk, Simon  
David, Wayne  
Davidson, Mr Ian  
Davies, Geraint  
De Piero, Gloria  
Denham, rh Mr John  
Dobbin, Jim  
Docherty, Thomas  
Dodds, rh Mr Nigel  
Donaldson, rh Mr Jeffrey M.  
Donohoe, Mr Brian H.  
Doran, Mr Frank  
Doughty, Stephen  
Doyle, Gemma  
Durkan, Mark  
Eagle, Ms Angela  
Eagle, Maria

Efford, Clive  
Elliott, Julie  
Engel, Natascha  
Esterson, Bill  
Evans, Chris  
Farrelly, Paul  
Field, rh Mr Frank  
Fitzpatrick, Jim  
Flello, Robert  
Flint, rh Caroline  
Flynn, Paul  
Fovargue, Yvonne  
Francis, Dr Hywel  
Gardiner, Barry  
Gilmore, Sheila  
Glass, Pat  
Glindon, Mrs Mary  
Godsiff, Mr Roger  
Goodman, Helen  
Greatrex, Tom  
Green, Kate  
Greenwood, Lilian  
Griffith, Nia  
Gwynne, Andrew  
Hamilton, Mr David

Hamilton, Fabian

Hancock, Mr Mike

Hanson, rh Mr David

Harris, Mr Tom

Havard, Mr Dai

Healey, rh John

Hepburn, Mr Stephen

Heyes, David

Hillier, Meg

Hodgson, Mrs Sharon

Hoey, Kate

Hood, Mr Jim

Hopkins, Kelvin

Hosie, Stewart

Hunt, Tristram

Jackson, Glenda

Jamieson, Cathy

Jarvis, Dan

Johnson, rh Alan

Jones, Graham

Jones, Helen

Jones, Susan Elan

Kaufman, rh Sir Gerald

Keeley, Barbara

Kendall, Liz

Lammy, rh Mr David

Lavery, Ian

Lazarowicz, Mark

Leslie, Chris

Lewell-Buck, Mrs Emma

Lewis, Mr Ivan

Llwyd, rh Mr Elfyn

Long, Naomi

Love, Mr Andrew

Lucas, Caroline

Lucas, Ian

Mactaggart, Fiona

Mahmood, Shabana

Malhotra, Seema

Mann, John

Marsden, Mr Gordon

McCabe, Steve

McCarthy, Kerry

McClymont, Gregg

McCrea, Dr William

McDonagh, Siobhain

McDonald, Andy

McDonnell, John

McFadden, rh Mr Pat

McGovern, Alison

McGovern, Jim

McGuire, rh Mrs Anne

McKechin, Ann

McKenzie, Mr Iain

McKinnell, Catherine

Meacher, rh Mr Michael

Meale, Sir Alan

Mearns, Ian

Miller, Andrew

Mitchell, Austin

Moon, Mrs Madeleine

Morden, Jessica

Morrice, Graeme

*(Livingston)*

Morris, Grahame M.

*(Easington)*

Mudie, Mr George

Munn, Meg

Murphy, rh Mr Jim

Murphy, rh Paul

Murray, Ian

Nandy, Lisa

Nash, Pamela

O'Donnell, Fiona

Onwurah, Chi

Owen, Albert

Paisley, Ian

Pearce, Teresa

Perkins, Toby

Phillipson, Bridget

Pound, Stephen

Powell, Lucy

Qureshi, Yasmin

Raynsford, rh Mr Nick

Reed, Mr Jamie

Reed, Mr Steve

Reynolds, Emma

Reynolds, Jonathan

Ritchie, Ms Margaret

Robertson, Angus

Robertson, John

Robinson, Mr Geoffrey

Rotheram, Steve

Roy, Mr Frank

Roy, Lindsay

Ruane, Chris

Ruddock, rh Dame Joan

Sarwar, Anas

Sawford, Andy

Seabeck, Alison

Shannon, Jim

Sharma, Mr Virendra

Sheerman, Mr Barry

Sheridan, Jim

Shuker, Gavin

Simpson, David

Skinner, Mr Dennis

Slaughter, Mr Andy

Smith, Angela

Smith, Nick

Smith, Owen

Stringer, Graham

Stuart, Ms Gisela

Sutcliffe, Mr Gerry

Tami, Mark

Thornberry, Emily

Timms, rh Stephen

Trickett, Jon

Turner, Karl

Twigg, Derek

Twigg, Stephen

Umunna, Mr Chuka

Vaz, rh Keith

Vaz, Valerie

Walley, Joan

Watts, Mr Dave

Weir, Mr Mike

Whiteford, Dr Eilidh

Whitehead, Dr Alan

Williams, Hywel

Williamson, Chris

Wilson, Phil

Wilson, Sammy

Winnick, Mr David

Winterton, rh Ms Rosie

Wishart, Pete

Wood, Mike

Woodcock, John

Wright, David

Wright, Mr Iain

**Tellers for the Ayes:**

Tom Blenkinsop

**and**

Julie Hilling

**NOES**

Adams, Nigel

Afriyie, Adam

Aldous, Peter

Amess, Mr David

Andrew, Stuart

Arbuthnot, rh Mr James

Baker, Norman

Baker, Steve

Baldry, rh Sir Tony

Baldwin, Harriett

Barclay, Stephen

Barker, rh Gregory

Bebb, Guto

Beith, rh Sir Alan

Bellingham, Mr Henry

Benyon, Richard

Beresford, Sir Paul

Berry, Jake

Bingham, Andrew

Binley, Mr Brian

Birtwistle, Gordon

Blackman, Bob

Blunt, Mr Crispin

Boles, Nick

Bone, Mr Peter

Brady, Mr Graham

Bray, Angie

Brazier, Mr Julian

Bridgen, Andrew

Brine, Steve

Brokenshire, James

Brooke, Annette

Bruce, Fiona

Bruce, rh Sir Malcolm

Buckland, Mr Robert

Burley, Mr Aidan

Burns, Conor

Burrowes, Mr David

Burt, rh Alistair

Burt, Lorely

Cable, rh Vince

Cairns, Alun

Cameron, rh Mr David

Campbell, rh Sir Menzies

Carmichael, rh Mr Alistair

Carmichael, Neil

Carswell, Mr Douglas

Cash, Mr William

Chishti, Rehman

Chope, Mr Christopher

Clappison, Mr James

Clark, rh Greg

Clarke, rh Mr Kenneth

Clegg, rh Mr Nick

Clifton-Brown, Geoffrey

Coffey, Dr Thérèse

Collins, Damian

Colvile, Oliver

Crabb, Stephen

Crockart, Mike

Davey, rh Mr Edward

Davies, David T. C.

*(Monmouth)*

Davies, Glyn

de Bois, Nick

Dinenage, Caroline

Djanogly, Mr Jonathan

Dorrell, rh Mr Stephen

Dorries, Nadine

Doyle-Price, Jackie

Duddridge, James

Duncan, rh Mr Alan

Duncan Smith, rh Mr Iain

Ellis, Michael

Ellison, Jane

Ellwood, Mr Tobias

Elphicke, Charlie

Evans, Graham

Evans, Jonathan

Evans, Mr Nigel

Evennett, Mr David

Fallon, rh Michael

Farron, Tim

Featherstone, Lynne

Field, Mark

Foster, rh Mr Don

Fox, rh Dr Liam

Freeman, George

Freer, Mike

Fullbrook, Lorraine

Fuller, Richard

Gale, Sir Roger

Garnier, Sir Edward

Garnier, Mark

Gauke, Mr David

George, Andrew

Gibb, Mr Nick

Gilbert, Stephen

Gillan, rh Mrs Cheryl

Glen, John

Goldsmith, Zac

Goodwill, Mr Robert

Graham, Richard

Gray, Mr James

Grayling, rh Chris

Green, rh Damian

Greening, rh Justine

Grieve, rh Mr Dominic

Griffiths, Andrew

Gyimah, Mr Sam

Halfon, Robert

Hammond, rh Mr Philip

Hancock, Matthew

Harper, Mr Mark

Harrington, Richard

Harris, Rebecca

Hart, Simon

Haselhurst, rh Sir Alan

Hayes, rh Mr John

Heald, Oliver

Heath, Mr David

Heaton-Harris, Chris

Hemming, John

Henderson, Gordon

Hendry, Charles

Hinds, Damian

Hoban, Mr Mark

Hollingbery, George

Hollobone, Mr Philip

Hopkins, Kris

Howarth, Sir Gerald

Howell, John

Hughes, rh Simon

Hunt, rh Mr Jeremy

Huppert, Dr Julian

Hurd, Mr Nick

Jackson, Mr Stewart

James, Margot

Javid, Sajid

Jenkin, Mr Bernard

Johnson, Gareth

Johnson, Joseph

Jones, Andrew

Jones, rh Mr David

Jones, Mr Marcus

Kawczynski, Daniel

Kelly, Chris

Kennedy, rh Mr Charles

Kirby, Simon

Knight, rh Sir Greg

Kwarteng, Kwasi

Lamb, Norman

Lancaster, Mark

Lansley, rh Mr Andrew

Latham, Pauline

Laws, rh Mr David

Leadsom, Andrea

Lee, Jessica

Lee, Dr Phillip

Leech, Mr John

Lefroy, Jeremy

Leigh, Sir Edward

Leslie, Charlotte

Letwin, rh Mr Oliver

Lewis, Brandon

Lewis, Dr Julian

Lidington, rh Mr David

Lilley, rh Mr Peter

Lord, Jonathan

Loughton, Tim

Luff, Sir Peter

Lumley, Karen

Macleod, Mary

Main, Mrs Anne

Maude, rh Mr Francis

Maynard, Paul

McCartney, Jason

McCartney, Karl

McIntosh, Miss Anne

McLoughlin, rh Mr Patrick

McPartland, Stephen

McVey, Esther

Menzies, Mark

Metcalf, Stephen

Miller, rh Maria

Mills, Nigel

Milton, Anne

Mitchell, rh Mr Andrew

Moore, rh Michael

Mordaunt, Penny

Morgan, Nicky

Morris, Anne Marie

Morris, David

Morris, James

Mosley, Stephen

Mowat, David

Mulholland, Greg

Munt, Tessa

Murray, Sheryll

Murrison, Dr Andrew

Neill, Robert

Newmark, Mr Brooks

Newton, Sarah

Nokes, Caroline

Norman, Jesse

Nuttall, Mr David

O'Brien, rh Mr Stephen

Offord, Dr Matthew

Ollerenshaw, Eric

Opperman, Guy

Osborne, rh Mr George

Paice, rh Sir James

Parish, Neil

Pawsey, Mark

Penning, Mike

Penrose, John

Percy, Andrew

Perry, Claire

Pickles, rh Mr Eric

Pincher, Christopher

Poulter, Dr Daniel

Prisk, Mr Mark

Pugh, John

Raab, Mr Dominic

Redwood, rh Mr John

Rees-Mogg, Jacob

Reid, Mr Alan

Rifkind, rh Sir Malcolm

Robathan, rh Mr Andrew

Robertson, Mr Laurence

Rogerson, Dan

Rosindell, Andrew

Rudd, Amber

Ruffley, Mr David

Russell, Sir Bob

Rutley, David

Sanders, Mr Adrian

Sandys, Laura

Scott, Mr Lee

Selous, Andrew

Sharma, Alok

Shelbrooke, Alec

Shepherd, Sir Richard

Simmonds, Mark

Simpson, Mr Keith

Smith, Chloe

Smith, Henry

Smith, Julian

Smith, Sir Robert

Soames, rh Nicholas

Soubry, Anna

Spelman, rh Mrs Caroline

Spencer, Mr Mark

Stanley, rh Sir John

Stephenson, Andrew

Stevenson, John

Stewart, Bob

Stewart, Iain

Stewart, Rory

Streeter, Mr Gary

Stride, Mel

Stuart, Mr Graham

Stunell, rh Sir Andrew

Sturdy, Julian

Swales, Ian

Swayne, rh Mr Desmond

Swire, rh Mr Hugo

Syms, Mr Robert

Thornton, Mike

Thurso, John

Timpson, Mr Edward

Tomlinson, Justin

Tredinnick, David

Truss, Elizabeth

Turner, Mr Andrew

Tyrie, Mr Andrew

Uppal, Paul

Vaizey, Mr Edward

Vickers, Martin

Walker, Mr Charles

Walker, Mr Robin

Walter, Mr Robert

Ward, Mr David

Watkinson, Dame Angela

Weatherley, Mike

Webb, Steve

Wharton, James

Wheeler, Heather

White, Chris

Whittaker, Craig

Whittingdale, Mr John

Wiggin, Bill

Willetts, rh Mr David

Williams, Roger

Williams, Stephen

Williamson, Gavin

Willott, Jenny

Wilson, Mr Rob

Wollaston, Dr Sarah

Wright, Jeremy

Wright, Simon

Yeo, Mr Tim

Young, rh Sir George

Zahawi, Nadhim

**Tellers for the Noes:**

Karen Bradley

**and**

Gavin Barwell

*Question accordingly negatived.*

**7 Jan 2014 : Column 244**

**7 Jan 2014 : Column 245**

**7 Jan 2014 : Column 246**

**7 Jan 2014 : Column 247**

Clause 4

Payments

*Amendment proposed:* 1, page 3, line 5 , at end insert ‘but shall not be less than 80 per cent of the average civil compensation recovered by mesothelioma claimants.’.—(*Tracey Crouch.*)

*Question put,* That the amendment be made.

*The House divided:*

Ayes 247, Noes 286.

**Division No. 170]**

[

**5.24 pm**

**AYES**

Abbott, Ms Diane

Abrahams, Debbie

Ainsworth, rh Mr Bob

Alexander, rh Mr Douglas

Alexander, Heidi

Ali, Rushanara

Anderson, Mr David

Ashworth, Jonathan

Austin, Ian

Bailey, Mr Adrian

Bain, Mr William

Barclay, Stephen

Barron, rh Kevin

Bayley, Hugh

Benn, rh Hilary

Benton, Mr Joe

Berger, Luciana

Betts, Mr Clive

Bingham, Andrew

Blackman-Woods, Roberta

Blears, rh Hazel

Blomfield, Paul

Blunkett, rh Mr David

Bradshaw, rh Mr Ben

Brennan, Kevin

Brown, Lyn

Brown, rh Mr Nicholas

Brown, Mr Russell

Bryant, Chris

Buck, Ms Karen

Burden, Richard

Burnham, rh Andy

Burns, Conor

Byrne, rh Mr Liam

Campbell, Mr Alan

Campbell, Mr Ronnie

Caton, Martin

Champion, Sarah

Chapman, Jenny

Clark, Katy

Clarke, rh Mr Tom

Clwyd, rh Ann

Connarty, Michael

Cooper, rh Yvette

Crausby, Mr David

Creagh, Mary

Creasy, Stella

Crouch, Tracey

Cruddas, Jon

Cryer, John

Cunningham, Alex

Cunningham, Mr Jim

Cunningham, Sir Tony

Curran, Margaret

Dakin, Nic

Danczuk, Simon

David, Wayne

Davidson, Mr Ian

Davies, Geraint

De Piero, Gloria

Denham, rh Mr John

Dobbin, Jim

Docherty, Thomas

Dodds, rh Mr Nigel

Donaldson, rh Mr Jeffrey M.

Donohoe, Mr Brian H.

Doran, Mr Frank

Doughty, Stephen

Doyle, Gemma

Durkan, Mark

Eagle, Ms Angela

Eagle, Maria

Efford, Clive

Elliott, Julie

Engel, Natascha

Esterson, Bill

Evans, Chris

Farrelly, Paul

Field, rh Mr Frank

Fitzpatrick, Jim  
Flelo, Robert  
Flint, rh Caroline  
Flynn, Paul  
Fovargue, Yvonne  
Francis, Dr Hywel  
Gale, Sir Roger  
Gapes, Mike  
Gardiner, Barry  
Gilmore, Sheila  
Glass, Pat  
Glindon, Mrs Mary  
Godsiff, Mr Roger  
Goldsmith, Zac  
Goodman, Helen  
Greatrex, Tom  
Green, Kate  
Greenwood, Lilian  
Griffith, Nia  
Gwynne, Andrew  
Hamilton, Mr David  
Hamilton, Fabian  
Hancock, Mr Mike  
Hanson, rh Mr David  
Harris, Mr Tom

Havard, Mr Dai

Healey, rh John

Hendrick, Mark

Hepburn, Mr Stephen

Heyes, David

Hillier, Meg

Hodgson, Mrs Sharon

Hoey, Kate

Hood, Mr Jim

Hopkins, Kelvin

Hosie, Stewart

Hunt, Tristram

Jackson, Glenda

Jamieson, Cathy

Jarvis, Dan

Johnson, rh Alan

Jones, Graham

Jones, Helen

Jones, Susan Elan

Kaufman, rh Sir Gerald

Keeley, Barbara

Kendall, Liz

Khan, rh Sadiq

Lammy, rh Mr David

Lavery, Ian

Lazarowicz, Mark

Lee, Dr Phillip

Leech, Mr John

Lefroy, Jeremy

Leslie, Chris

Lewell-Buck, Mrs Emma

Lewis, Mr Ivan

Llwyd, rh Mr Elfyn

Long, Naomi

Love, Mr Andrew

Lucas, Caroline

Lucas, Ian

Mactaggart, Fiona

Mahmood, Shabana

Malhotra, Seema

Mann, John

Marsden, Mr Gordon

McCabe, Steve

McCarthy, Kerry

McClymont, Gregg

McCrea, Dr William

McDonagh, Siobhain

McDonald, Andy

McDonnell, John

McFadden, rh Mr Pat

McGovern, Alison

McGovern, Jim

McGuire, rh Mrs Anne

McKechin, Ann

McKenzie, Mr Iain

McKinnell, Catherine

Meacher, rh Mr Michael

Meale, Sir Alan

Mearns, Ian

Miliband, rh Edward

Miller, Andrew

Mitchell, Austin

Moon, Mrs Madeleine

Morden, Jessica

Morrice, Graeme

*(Livingston)*

Morris, Grahame M.

*(Easington)*

Mudie, Mr George

Munn, Meg

Murphy, rh Mr Jim

Murphy, rh Paul

Murray, Ian

Nandy, Lisa

Nash, Pamela

O'Donnell, Fiona

Onwurah, Chi

Owen, Albert

Paisley, Ian

Pearce, Teresa

Percy, Andrew

Perkins, Toby

Phillipson, Bridget

Pound, Stephen

Powell, Lucy

Qureshi, Yasmin

Raynsford, rh Mr Nick

Reed, Mr Jamie

Reed, Mr Steve

Reynolds, Emma

Reynolds, Jonathan

Ritchie, Ms Margaret

Robertson, Angus

Robertson, John

Robinson, Mr Geoffrey

Rotheram, Steve

Roy, Mr Frank

Roy, Lindsay

Ruane, Chris

Ruddock, rh Dame Joan

Sarwar, Anas

Sawford, Andy

Seabeck, Alison

Shannon, Jim

Sharma, Mr Virendra

Sheerman, Mr Barry

Sheridan, Jim

Shuker, Gavin

Simpson, David

Skinner, Mr Dennis

Slaughter, Mr Andy

Smith, Angela

Smith, Nick

Smith, Owen

Spelman, rh Mrs Caroline

Stringer, Graham

Stuart, Ms Gisela

Sutcliffe, Mr Gerry

Tami, Mark

Thornberry, Emily

Timms, rh Stephen

Trickett, Jon

Turner, Karl

Twigg, Derek

Twigg, Stephen

Umunna, Mr Chuka

Vaz, Valerie

Walley, Joan

Watts, Mr Dave

Weir, Mr Mike

Whiteford, Dr Eilidh

Whitehead, Dr Alan

Whittaker, Craig

Williams, Hywel

Williamson, Chris

Wilson, Phil

Wilson, Sammy

Winnick, Mr David

Winterton, rh Ms Rosie

Wishart, Pete

Wollaston, Dr Sarah

Wood, Mike

Woodcock, John

Wright, David

Wright, Mr Iain

**Tellers for the Ayes:**

Tom Blenkinsop

**and**

Julie Hilling

## **NOES**

Adams, Nigel

Afriyie, Adam

Aldous, Peter

Amess, Mr David

Andrew, Stuart

Arbuthnot, rh Mr James

Baker, Norman

Baker, Steve

Baldry, rh Sir Tony

Baldwin, Harriett

Barker, rh Gregory

Bebb, Guto

Beith, rh Sir Alan

Bellingham, Mr Henry

Benyon, Richard

Beresford, Sir Paul

Berry, Jake

Binley, Mr Brian

Birtwistle, Gordon

Blackman, Bob

Boles, Nick

Bone, Mr Peter

Brazier, Mr Julian

Bridgen, Andrew

Brine, Steve

Brokenshire, James

Bruce, Fiona

Bruce, rh Sir Malcolm

Burley, Mr Aidan

Burrowes, Mr David

Burt, rh Alistair

Burt, Lorely

Cable, rh Vince

Cairns, Alun

Campbell, rh Sir Menzies

Carmichael, rh Mr Alistair

Carmichael, Neil

Cash, Mr William

Chishti, Rehman

Chope, Mr Christopher

Clappison, Mr James

Clark, rh Greg

Clarke, rh Mr Kenneth

Clegg, rh Mr Nick

Clifton-Brown, Geoffrey

Coffey, Dr Thérèse

Collins, Damian

Colvile, Oliver

Crabb, Stephen

Crockart, Mike

Davey, rh Mr Edward

Davies, David T. C.

*(Monmouth)*

Davies, Glyn

de Bois, Nick

Dinenage, Caroline

Djanogly, Mr Jonathan

Dorrell, rh Mr Stephen

Dorries, Nadine

Doyle-Price, Jackie

Duddridge, James

Duncan, rh Mr Alan

Duncan Smith, rh Mr Iain

Ellis, Michael

Ellison, Jane

Ellwood, Mr Tobias

Elphicke, Charlie

Evans, Graham

Evans, Jonathan

Evans, Mr Nigel

Evennett, Mr David

Fallon, rh Michael

Farron, Tim

Featherstone, Lynne

Field, Mark

Foster, rh Mr Don

Fox, rh Dr Liam

Freeman, George

Freer, Mike

Fullbrook, Lorraine

Fuller, Richard

Garnier, Sir Edward

Garnier, Mark

Gauke, Mr David

George, Andrew

Gibb, Mr Nick

Gilbert, Stephen

Gillan, rh Mrs Cheryl

Glen, John

Goodwill, Mr Robert

Graham, Richard

Gray, Mr James

Grayling, rh Chris

Green, rh Damian

Greening, rh Justine

Grieve, rh Mr Dominic

Griffiths, Andrew

Gyimah, Mr Sam

Halfon, Robert

Hammond, rh Mr Philip

Hancock, Matthew

Harper, Mr Mark

Harrington, Richard

Harris, Rebecca

Hart, Simon

Haselhurst, rh Sir Alan

Hayes, rh Mr John

Heald, Oliver

Heath, Mr David

Heaton-Harris, Chris

Hemming, John

Hendry, Charles

Hinds, Damian

Hoban, Mr Mark

Hollingbery, George

Hollobone, Mr Philip

Hopkins, Kris

Howarth, Sir Gerald

Howell, John

Hughes, rh Simon

Hunt, rh Mr Jeremy

Huppert, Dr Julian

Hurd, Mr Nick

Jackson, Mr Stewart

James, Margot

Javid, Sajid

Jenkin, Mr Bernard

Johnson, Gareth

Johnson, Joseph

Jones, Andrew

Jones, rh Mr David

Jones, Mr Marcus

Kawczynski, Daniel

Kelly, Chris

Kennedy, rh Mr Charles

Kirby, Simon

Knight, rh Sir Greg

Kwarteng, Kwasi

Lamb, Norman

Lancaster, Mark

Lansley, rh Mr Andrew

Latham, Pauline

Laws, rh Mr David

Leadsom, Andrea

Lee, Jessica

Leigh, Sir Edward

Leslie, Charlotte

Letwin, rh Mr Oliver

Lewis, Brandon

Lewis, Dr Julian

Lidington, rh Mr David

Lilley, rh Mr Peter

Lord, Jonathan

Loughton, Tim

Luff, Sir Peter

Lumley, Karen

Macleod, Mary

Main, Mrs Anne

Maude, rh Mr Francis

May, rh Mrs Theresa

Maynard, Paul

McCartney, Jason

McCartney, Karl

McIntosh, Miss Anne

McLoughlin, rh Mr Patrick

McPartland, Stephen

McVey, Esther

Menzies, Mark

Metcalf, Stephen

Miller, rh Maria

Mills, Nigel

Milton, Anne

Mitchell, rh Mr Andrew

Moore, rh Michael

Mordaunt, Penny

Morgan, Nicky

Morris, Anne Marie

Morris, David

Morris, James

Mosley, Stephen

Mowat, David

Mulholland, Greg

Munt, Tessa

Murray, Sheryll

Murrison, Dr Andrew

Neill, Robert

Newmark, Mr Brooks

Newton, Sarah

Nokes, Caroline

Norman, Jesse

Nuttall, Mr David

O'Brien, rh Mr Stephen

Offord, Dr Matthew

Ollerenshaw, Eric

Opperman, Guy

Osborne, rh Mr George

Ottaway, rh Sir Richard

Paice, rh Sir James

Parish, Neil

Pawsey, Mark

Penning, Mike

Penrose, John

Perry, Claire

Pickles, rh Mr Eric

Pincher, Christopher

Poulter, Dr Daniel

Prisk, Mr Mark

Pritchard, Mark

Pugh, John

Raab, Mr Dominic

Redwood, rh Mr John

Rees-Mogg, Jacob

Reid, Mr Alan

Rifkind, rh Sir Malcolm

Robathan, rh Mr Andrew

Robertson, Mr Laurence

Rogerson, Dan

Rosindell, Andrew

Rudd, Amber

Ruffley, Mr David

Russell, Sir Bob

Rutley, David

Sanders, Mr Adrian

Sandys, Laura

Scott, Mr Lee

Selous, Andrew

Sharma, Alok

Shelbrooke, Alec

Shepherd, Sir Richard

Simmonds, Mark

Simpson, Mr Keith

Smith, Chloe

Smith, Henry

Smith, Julian

Smith, Sir Robert

Soames, rh Nicholas

Soubry, Anna

Spencer, Mr Mark

Stanley, rh Sir John

Stephenson, Andrew

Stevenson, John

Stewart, Bob

Stewart, Iain

Stewart, Rory

Streeter, Mr Gary

Stride, Mel

Stuart, Mr Graham

Stunell, rh Sir Andrew

Sturdy, Julian

Swales, Ian

Swayne, rh Mr Desmond

Swire, rh Mr Hugo

Syms, Mr Robert

Thornton, Mike

Thurso, John

Timpson, Mr Edward

Tomlinson, Justin

Tredinnick, David

Turner, Mr Andrew

Tyrie, Mr Andrew

Uppal, Paul

Vaizey, Mr Edward

Vickers, Martin

Walker, Mr Charles

Walker, Mr Robin

Walter, Mr Robert

Ward, Mr David

Watkinson, Dame Angela

Weatherley, Mike

Webb, Steve

Wharton, James

Wheeler, Heather

White, Chris

Whittingdale, Mr John

Wiggin, Bill

Willetts, rh Mr David

Williams, Roger

Williams, Stephen

Williamson, Gavin

Willott, Jenny

Wilson, Mr Rob

Wright, Jeremy

Wright, Simon

Yeo, Mr Tim

Young, rh Sir George

Zahawi, Nadhim

**Tellers for the Noes:**

Karen Bradley

**and**

Gavin Barwell

*Question accordingly negatived.*

**7 Jan 2014 : Column 248**

**7 Jan 2014 : Column 249**

**7 Jan 2014 : Column 250**

**7 Jan 2014 : Column 251**

Clause 5

Applications and procedure

**Kate Green:** I beg to move amendment 10, page 3, line 32, at end add—

‘(3) Clause 18(2)(a) of the Commissioners for Revenue and Customs Act 2005 is amended as follows—

After sub-paragraph (ii) there is inserted—

(a)

(i) is made to representatives of persons preparing an application to the Diffuse Mesothelioma Payment Scheme or being assisted by that scheme to bring a claim under the Fatal Accidents Act 1976, and/or the Law Reform (Miscellaneous Provisions) Act 1934.’.

I apologise to the House for what will prove to be a rather technical and nerdy amendment. To reassure the Minister and the House before we start—*[Interruption.]*

**7 Jan 2014 : Column 252**

**Madam Deputy Speaker (Dawn Primarolo):** Order. Will Members please leave the Chamber quietly so that we can complete the business before the knife at 6 o’clock?

**Kate Green:** I reassure the Minister and the House that it is not my intention to press the amendment to a vote. I hope that he will be able to offer me at least some indication of the way forward as a result of the concerns I am about to raise.

The amendment was discussed in Committee on 12 December and relates to the fact that HMRC has now decided that a High Court order will be needed in order for it to release the employment records of deceased customers and protect employers’ confidentiality. Clearly mesothelioma sufferers coming to the diffuse mesothelioma payments scheme will need to have employment records to demonstrate their prima facie case that an employers’ liability policy of insurance existed.

Under the Data Protection Act, disclosure about employers to customers while still living is permitted because that would be part of their personal information. But this cannot apply once the customer is deceased. It might then be possible to look to the Commissioner of Revenue and Customs Act 2005 to enable access to employment records but this does not appear to offer circumstances in which HMRC is prepared to release the records without a High Court order, as HMRC confirmed in a letter to the Association of Personal Injury Lawyers on 2 December last year.

Clearly this is a worry in relation to the diffuse mesothelioma payments scheme because it will be very burdensome for families to get such a court order—burdensome and potentially costly. We must recognise that the need to do so will be quite frequent because victims die so quickly after diagnosis. The Data Protection Act exemption that is available to customers while still living will in many cases not be available.

When we discussed the matter in Committee before Christmas, I asked the Minister what consideration had been given to the impact of the changed interpretation on mesothelioma victims. I asked what consultation had been carried out and how the change in interpretation could be reconciled with the Ministry of Justice’s aim to speed up the process of claims. I emphasise of course that this is an issue not just for those coming through the diffuse

mesothelioma payments scheme, but for anyone pursuing civil claims in relation to the scheme.

Since our debate in Committee I have learned that the concerns that I raised are shared more widely. Coroners, in particular, are becoming very anxious. I am sure that the Minister will be aware that in the Liverpool coroners court the other day, the coroner required HMRC to produce the employment records of a Mr Roger Carmichael. HMRC, relying on its new interpretation of the law, declined to provide those records and to appear before the coroner. I understand that the ruling is now being challenged in a judicial review. Clearly, with the matter proceeding through the courts, both the Minister and I are going to have to be careful in what we say about that case—indeed, I do not intend to say anything about it.

What is clear, however, is that the situation is just a mess—a mess that will bear adversely on mesothelioma sufferers and one that we need to sort out. It is potentially a costly mess for the Government if, for example, coroners needed to be funded to make applications to the High

### **7 Jan 2014 : Column 253**

Court for the release of employment records. It is potentially a mess because it could be a breach of the Government's obligations under the European convention on human rights, particularly in respect of people's ability to exercise their article 2 rights, which would apply to mesothelioma claims. It is a confused mess when it comes to coroners' matters as to whether the Commissioners for Revenue and Customs Act 2005 or the Coroners and Justice Act 2009 prevails on disclosure—a mess that I imagine would be a subject of the judicial review. In any event, if we are speedily to introduce the diffuse mesothelioma payment scheme, it is a mess that we—and, I am sure, the Minister—will want to see speedily sorted out.

This mess has arisen not because the law has changed, but because HMRC's interpretation of the law has recently changed. Of course we understand and I accept that if HMRC receives legal advice saying that it should act differently from how it has worked previously, it cannot casually disregard it, but there is clearly an urgent need to clarify the exact position. The judicial review to which I referred might not adequately clarify the position for mesothelioma sufferers and their dependants coming into this scheme because, as I say, it might make a ruling only on mesothelioma matters before the coroner—not necessarily or likely to be applicable to accessing this scheme.

I know that the Minister recognised this concern when I raised it in Committee and he said that he was anxious to see it resolved, but reluctant to do it in this Bill because of his wariness around ping-pong. While I am, frankly, doubtful whether this would be a major stumbling-block if we had to ping this back to their lordships, who I think would be pretty happy to see an amendment put through simply and straightforwardly to address the particular problem, I understand that the Minister, in conjunction with his colleagues in other Departments, is now looking for another legislative vehicle.

That is certainly welcome, but I have to ask the Minister whether he is going to find that legislative vehicle quickly enough for it to be available before the diffuse mesothelioma payment scheme comes into effect? He has repeatedly stressed that this scheme needs to be up and running by the summer of 2014, which does not leave a lot of time to find a suitable legislative vehicle to sort out the problem and ensure that it is dealt with robustly so that the

scheme can properly be the beneficiary of such sorting out. I am thus extremely anxious that the Minister might find himself in some difficulty if his colleagues cannot oblige him with a handy, urgent and useful Bill.

The Minister might like to think about accepting this amendment. It is intended to help what he says he wants to happen, which is to get the scheme up and running, operational and effective as quickly as possible. It is not a contentious amendment; it is not one about which there is going to be any dispute either here or in the other place in respect of what it is designed to achieve. The amendment is narrowly drafted to relate specifically to those seeking employment records in relation to accessing the scheme that this Bill covers. If the Minister is unable to accept my amendment, I hope he will be able to assure me at least that the matter will be sorted

#### **7 Jan 2014 : Column 254**

out in good time before the scheme comes into operation this summer. I hope he will explain how he thinks that will happen. We do not want warm words alone; we need specifics. Time to sort this out is becoming urgent.

**Mike Penning:** I thank the shadow Minister for tabling the amendment and for setting out her position early when she said that she would not press the amendment to a vote. She is quite right, and I reiterate the point I made in Committee: I do not think this is the right Bill for addressing that important issue. I agree that the change in HMRC's interpretation of the existing law—as opposed to a change in the law itself—is a massive issue, but fortunately there is time for us to deal with it between now and July. I have been meeting Justice Ministers to discuss the matter. As I am sure the House will understand, the Ministry of Justice does not want the courts to be clogged up with people asking for court orders in order to obtain their employment records, and I am sure that that was not the intention when the legislation was enacted.

**5.45 pm**

Our priority—apart from publishing the regulations, which we hope to do tomorrow—is to address this matter. I will meet a Justice Minister, and we will find a vehicle to simplify the way in which the employment records are obtained for those who are making claims on the mesothelioma fund, so that we can do exactly what it says on the tin. What we have wanted to do all along is secure a speedy resolution for those who need access to the fund because they have no other recourse, and it is imperative for the House and Ministers to ensure that that happens. I hope the hon. Lady accepts that we are working very hard, and are also asking for legal opinions on whether we can take some action between now and the passing of the Bill.

**Sir Edward Leigh (Gainsborough) (Con):** Could the matter eventually be dealt with by means of delegated legislation?

**Mike Penning:** I understand that that is possible. It could also be dealt with through a deregulation Bill. In any event, we will find the necessary vehicle. As I have said, the Ministry of Justice does not want the courts to be clogged up with requests for court orders, and the matter will be resolved.

**Kate Green:** I am grateful to the Minister, I am also grateful to the hon. Member for Gainsborough (Sir Edward Leigh) for his helpful intervention about the possibility of secondary legislation. Perhaps the Minister could discuss with his colleagues and with the Government's legal advisers whether the regulations under the Bill—which I expect to complete its passage later this evening—could be used as a vehicle for the change. Although more substantial Bills such as the Deregulation Bill may make some progress between now and July, we have not observed legislation proceeding all that speedily under this Government, particularly given the notorious requirement for a legislative “pause” while Ministers go off and rethink from time to time. Obviously, if the Minister has to use colleagues' primary legislation to deliver his intent, he will be careful to select a Bill that would pose no such risk.

**7 Jan 2014 : Column 255**

**Mike Penning:** Just to have a little bit of fun with the hon. Lady, let me point out that, having first been accused of trying to rush the Bill through, I am now being criticised for the fact that the Government are slowing down legislation. One cannot win, can one?

**Kate Green:** It must be tough being the Minister. I am sure that all our sympathies go out to the hon. Gentleman.

As I have said, I do not intend to press the amendment to a vote. The judicial review may give us some indication of the interpretation of the current legislation, which would be helpful, and I think that we should wait for that. I know that the Minister fully appreciates the urgency with which my amendment seeks to drive the process, and I hope that I can work with him to find and expedite the most suitable vehicle. If that turns out to be regulations under the Bill, we will stand ready to help him to ensure that they are passed.

I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Third Reading*

**5.48 pm**

**Mike Penning:** I beg to move, That the Bill be now read the Third time.

It is an honour and a privilege to be the Minister who has taken the Bill through the House so speedily, with the help of Her Majesty's Opposition and many other Members. Let me explain why the Bill is necessary. It will provide a fund of last resort for those who suffer from mesothelioma as a result of asbestos poisoning, and for their loved ones. As was pointed out earlier by the right hon. Member for Newcastle upon Tyne East (Mr Brown), it has been on Ministers' desks for an awfully long time. It is not perfect—I accept that it is not perfect—but it will, I hope, do what it says on the tin and get compensation to those who so greatly need it.

I want to pay tribute to those who have helped get this Bill where it is, in particular the civil servants in the Box this evening—my Bill manager, Lee Eplett, Rose Willis, Fiona Walshe and Jenny Vass—the Bill Committee joint-Chairs, the right hon. Member for Knowsley (Mr

Howarth) and my hon. Friend the Member for Shipley (Philip Davies), and the Government Whip, my hon. Friend the Member for Devizes (Claire Perry), for their assistance in expediting the Bill's passage. We had three days—six sessions—for the Bill Committee if we needed them. I think everybody who served on the Committee will accept that we discussed it at length yet we still had time to spare. That is exactly what should happen with a Bill; no one should come out and say, "We haven't discussed it at length." We will be finishing slightly ahead of schedule this evening as well. I hope the tone with which the Bill has been addressed during its progress through the House, with the assistance of Her Majesty's Opposition, will be continued, and I pay tribute to the hon. Member for Stretford and Urmston (Kate Green) for the way in which she has worked with me and my officials so that, should the Bill get its Third Reading, we can send it off to Her Majesty for Royal Assent, get the regulations down, and get compensation paid to those who so desperately need it, hopefully by July. I commend the Bill to the House.

**7 Jan 2014 : Column 256**

**5.51 pm**

**Kate Green:** The Opposition welcome this opportunity to put a scheme into law that will provide a measure of payment to victims of what we are all agreed is a most horrific and terrible disease. I pay tribute to Ministers in this Government and past Governments who have worked over many years to bring us to the point we reach today, and also to Members of all parties who have been so determined to fight for the best possible deal for victims of this terrible disease. May I also place on record my thanks to campaigners who have been actively and determinedly lobbying for many years for justice for victims, including trade union campaigners and especially the victim support groups around the country who I know have been in contact with many of us about the very complex and technical details of this Bill? I also want to echo the Minister's thanks to his officials, who have been extremely helpful, in this Chamber and the other place, and to both Opposition and Government spokespeople, in ensuring that we all have a full understanding of the often complex and technical analysis of the likely consequences of different scenarios, which we sought to test as we considered the Bill.

The Minister said a few moments ago that the Bill is not perfect and we concur. We are pleased to have made the progress we have, but we regret that there have been some missed opportunities which many of us feel did not need to be missed. There was scope to have gone at least a little further than we have managed tonight. The Bill could be so much better than it is and, in the House of Lords, in Committee, on Second Reading and again this afternoon and this evening, Members on both sides of the House have highlighted its deficiencies and have suggested very constructive, practical—and affordable, where cost implications have been involved—ways to remedy them. It is disappointing that the Minister has felt under such pressure from the deal that has been done with the industry that he has been unable to accept any of the amendments, which I think have been brought forward in a very constructive manner. I think the Minister himself said that that has been the spirit in which we have sought to make the changes we have advanced.

However, we welcome the promise that the regulations that we will shortly be studying will provide for a review of the operation and effects of the scheme in four years' time. We are determined to see that provision appearing in the regulations, and Members across the House will be equally anxious in four years' time to hold Ministers to a full, meaningful and

effective review that genuinely addresses the operation and consequences of the scheme and the potential for its expansion and extension.

It is a matter of concern that we are passing legislation today that we already think will need improvement in four years' time. I hold the rather old-fashioned view that we ought to try to get legislation right first time, and it is a shame that we already know that Parliament will want to come back to certain areas of this legislation after four years. Mention has been made repeatedly during the passage of the Bill of the areas involved. They include: eligibility; access to the scheme; the cost of running and administering the scheme; the processes surrounding the scheme; the funding of research into the treatment and cure for mesothelioma; and, of course, the generosity of the scheme. There is a clear need for us

### **7 Jan 2014 : Column 257**

to make progress in the development of each of those areas, and I believe that the Bill should have been used to ensure that progress.

On the question of generosity, it is widely agreed that there is no moral case whatever for sufferers to receive a payout of less than 100%. Even if we accept that there is a constraint on 100% payouts that is dictated by affordability—the industry has suggested that that affordability is restricted to an amount set at 3% of gross written premium—I suggest that that figure is laughably small in the context of a multi-billion pound industry that has been collecting premiums and avoiding payouts for decades. There should have been some scope for pushing the industry for more.

Regrettably, the amendments to introduce an earlier start date, to increase the level of payouts and, crucially, to protect the 3% levy were all rejected by the House. The Minister was reluctant to accept them, and the House did not vote for them. Those amendments would have meant: more money for victims; more victims benefiting; the possibility of more asbestos-related diseases being covered; more funding for research; and the inclusion of the self-employed and those who are currently forced to access less generous schemes.

On research, the Government's response, as articulated by Lord Howe in the House of Lords, has been welcome as far as it goes. We very much hope that it will bear fruit in bringing forward more, better-funded and more fully developed research proposals. However, we really cannot overlook the moral responsibility of everyone involved in the sorry history of asbestos exposure to invest now in the best quality research that we can possibly promote to tackle this horrible disease. It was pointed out earlier that our obligation is not just to sufferers who are experiencing and dying of the disease now, and not just to sufferers in the UK. Developing economies mean that exposure rates around the world will rise for many years to come. Good research programmes and proposals exist, and more will come forward. Ministers have given a welcome indication of what they intend to do to galvanise and support such proposals, but we will want to keep a close watch on the practical consequences and effects of the guarantees that have been given. Unless they turn into properly funded, meaningful research programmes, I fear that we will have heard little more than warm words.

We very much look forward to seeing the draft regulations, which the Minister has indicated will be available tomorrow. I hope that will give us the opportunity to see some of the details of how the scheme will be run, which remain to be teased out, even after our debates. We particularly wish to scrutinise the detailed operation of the scheme, because we know that the

insurance industry hopes to create a vehicle that can bid to administer the scheme. Understandably, there is a certain amount of suspicion among victims' groups about the industry, which has so wronged them over so many decades, now becoming the vehicle responsible for operating the scheme that is to give victims some level of financial satisfaction.

I have to say that the representatives of the Association of British Insurers who have discussed the Bill and the scheme with me have given me an encouraging impression of how committed they are to operating an effective

### **7 Jan 2014 : Column 258**

and well-run scheme that will get funds moving swiftly to victims. However, as I am sure the Minister will expect, it is not enough that we have a scheme run wholly in the interests of victims; the scheme must also be seen to be run in that way. That requires a tendering process that is entirely transparent. It requires transparency about the costs of running the scheme and who is recouping what payments for running the scheme, including details on a range of costs and fees that we are still unclear about: the legal fees, the arbitration costs, and the set-up and running costs. Those simply must not deplete resources that ought to be available to make payouts to victims. I hope that when the regulations are introduced, much more financial and operational detail will be given about the running of the scheme.

I am pleased that the Minister is working with colleagues in other Departments to sort out some difficulties that lie outwith his control but which, none the less, threaten either to derail or to have adverse impact on this scheme. He said that he was working collaboratively with colleagues—I hope he will be a little more assertive than that. We urgently need a resolution to the difficulties created for us by Her Majesty's Revenue and Customs' new interpretation of disclosure rules in relation to employment records. I hope, too, that he will continue in dialogue with the Ministry of Justice about the baffling correlation it makes between the Legal Aid, Sentencing and Punishment of Offenders Act 2012 provisions on mesothelioma and this scheme, which is, of course, designed entirely for victims who cannot access civil justice through the courts.

**Mr Andy Slaughter (Hammersmith) (Lab):** Has my hon. Friend had a response yet to the request in the letter she wrote to the Justice Secretary, which I believe was brought up in the Justice questions before last, about exactly this point? If so, will she enlighten us as to what the connection is between that Act and this Bill?

**Kate Green:** I am pleased to tell my hon. Friend that I have had a response. In fairness to the Justice Secretary, I should say that a response was received before Christmas. Clearly, he took note of the debates that were happening in our Committee, and the Minister of State, Department for Work and Pensions, the hon. Member for Hemel Hempstead (Mike Penning) was extremely helpful in expediting a response to a query that I had first raised in Justice questions on 11 November. I would be lying, however, if I said that I could now answer my hon. Friend's substantive question as to what that connection is. It is not for me to put words into the mouths of Ministers or to suggest what Ministers think the connection is, but let me roughly paraphrase the letter. It said, "We think the two are connected because we are going to do them at the same time." If I am doing wrong to the Minister's colleagues in the Ministry of Justice, I am sure that they will want to make it clear how I am being unfair to them—

**Madam Deputy Speaker (Dawn Primarolo):** I have given the hon. Lady quite a lot of latitude in respect of her comments about a parliamentary question, but I would like her to return now, however tempting the question is from the hon. Member for Hammersmith (Mr Slaughter), to the Third Reading and what is in this Bill.

**7 Jan 2014 : Column 259**

**Kate Green):** I am grateful to you, Madam Deputy Speaker.

The scheme that we will pass into law tonight is a start, but it is far from being all we can do for the victims of mesothelioma. I am glad that Parliament will keep close oversight of the scheme via the mechanism of the four-year report. That must be an opportunity for the fullest and most open scrutiny and should be taken as a genuine effort to develop and expand the scheme. As debate on the Bill has proceeded, it has been quite clear that it is the strong will of parliamentarians in both Houses and across all parties to secure justice for sufferers of this appalling disease, which was so often contracted by people who simply went out to work to earn a living to support their families, and yet in so doing were put under terrible threat. Today we have made a start in securing some justice for those victims, but there is much more for us to do. We can, we must and—as it is the mood of Parliament—we will do better for victims than we have been able to do to date.

**6.5 pm**

**Tracey Crouch:** I am pleased that we have reached Third Reading of this Bill. It is a welcome Bill, but I remain disappointed that it is not as good as it could and should have been if we were to provide fair and reasonable justice to the victims of mesothelioma. I recognise the constraints that the Minister was under as a consequence of the negotiations that were made before the Bill entered this Chamber. Although it is a good day for the victims of mesothelioma, it could have been a great day for them had some of the amendments that were tabled on Report been listened to.

**Mike Penning:** Let me place it on the record—I think I did this earlier—that my hon. Friend could not have done more for her constituents during the progression of this Bill through the House. I paid tribute to her earlier on, and I do so again now.

**Tracey Crouch:** I am grateful to the Minister for his comments. My constituency has high levels of mesothelioma because of its dockyard history and the heavy industries that surround the Medway towns. Earlier, the hon. Member for Barrow and Furness (John Woodcock) expressed concern that I might be poacher turned gamekeeper as a consequence of my time in the insurance industry before coming to this place and trying to secure better compensation for mesothelioma victims. My bosses from my previous life know that I was strong campaigner for mesothelioma victims. Indeed I was proud of the efforts that I took during my time in the insurance industry to try to improve access to compensation. It just so happens that I was also elected to a constituency that has high levels of mesothelioma.

I am pleased that we had a debate today, but, as I have said, I remain slightly disappointed that nothing has happened to the Bill since it received its Second Reading. I see that as a failure in the way that Parliament works. Although I pay tribute to the Minister's officials, who have worked incredibly hard and been generous with their time, it is a shame that the

Bill that was prepared before our debate in Parliament is exactly the same now despite the fact that there is a strong will on both sides of the House to improve the legislation.

**7 Jan 2014 : Column 260**

Let me pay tribute, as I did on Second Reading, to Lord Freud. He had a difficult time in getting the insurance industry to the table. I notice from the list of meetings that he met with the industry many times. Although he has had fewer meetings with the asbestos working group, it has had access to civil servants. He has done a good job, and would, I think, share the Minister's view that this is not a perfect Bill. In a perfect world, he would have liked much better legislation.

None the less, both Ministers, my hon. Friend the Member for Hemel Hempstead (Mike Penning) and Lord Freud, are quite right when they say that this legislation would not have happened had it not been for this Government, and I welcome that. I remember the negotiations that took place with the previous Government and it is quite right for the Ministers to say that they are proud of where they have got to. Mesothelioma victims will be better off as they will have access to some compensation but, as I have said, I still think that the Bill is flawed.

I also want to pay tribute to my hon. and learned Friend the Member for Sleaford and North Hykeham (Stephen Phillips), who did a fantastic job in Committee of raising many of the issues I would have liked to have raised personally. He brought to the debate understanding of the issues of mesothelioma and the concerns of the victims. Having met victims, he understands how awful the disease is, that it is a fatal disease that can be contracted only through exposure to asbestos and that victims will, unfortunately, die an incredibly painful death. He did a fantastic job of bringing forward many of the points I would have liked to have made.

I also want again to pay tribute to the right hon. Member for Wythenshawe and Sale East (Paul Goggins). He and I have worked on this issue for many months and years and it seems strange to stand up in this Chamber and discuss mesothelioma without his being in the House. I hope that he recognises that those of us who have tabled amendments and spoken in the debate have done so partly on his behalf. He has been a sound campaigner on the issue for many years. He is a decent man and all he wants to do is to try to improve the compensation for victims of this dreadful disease.

I look forward to the publication of the regulations and welcome the fact that there will be a review of the legislation. Like the hon. Member for Stretford and Urmston (Kate Green), I rather innocently and possibly even naively believe that we should be making legislation that does not need to be reviewed in four years' time and that it could be better scrutinised and considered in this place and in the other place before it passes into law. We are where we are, however, so I congratulate the Minister on getting the Bill through the House on time. I am pleased that many victims will secure some sort of compensation for a disease that they got simply by going to work.

**6.12 pm**

**Jim Shannon:** I, too, put on record my thanks to the shadow Minister, the hon. Member for Stretford and Urmston (Kate Green), for the way in which she made her argument today on

an issue that is close to all our hearts. I also thank the Minister. We know him as an individual, but we also know the work that he has done. His responses to our questions today would suggest

**7 Jan 2014 : Column 261**

that he might have wished to have seen something better but had to settle for a wee bit less than what we had hoped for.

Many passionate speeches have been made on behalf of individuals and families. They stick in my mind most of all because they come from knowledge and living with people who have had the disease. I have been an elected representative for almost 30 years as a councillor and an Assembly Member in Northern Ireland, and now I am privileged to be the Member of Parliament for Strangford. I have met a lot of people over the years who have had mesothelioma and serious health problems. I have helped some of those people with their disability living allowance and their incapacity benefit, as it was, or employment and support allowance, as it is now. I have seen those people deteriorate healthwise. I have known them personally and it was never easy to watch that marked deterioration in their health over a period of time.

My colleague, my hon. Friend the Member for East Antrim (Sammy Wilson), wearing his other hat as Finance Minister in Northern Ireland, introduced legislation to deal with compensation and in doing so brought about equality and fairness for sufferers. Today, we have contributed to a Bill that might not go as far as we would like, as the hon. Member for Chatham and Aylesford (Tracey Crouch) and the shadow Minister have said, but which goes a long way towards addressing the issues of those sufferers and those people. For that reason, we should take some credit for delivering that for our constituents.

I would have loved more pressure to be put on the insurance companies, as was suggested in the previous debate, and the percentage of compensation is not what I wished to see. However, this is a big step as regards people out there being able to see that this House can deliver such legislation, and in an urgent fashion. The Minister said that his imperative was urgently to produce legislation that could deliver, and that is clearly what he has tried to do. We want fairness for these sufferers to enable them to have some quality of life in their lifetime, however short it might be. I always think of the families, in particular, who watched their loved one deteriorate markedly in a very short period. This Bill takes a massive step in the right direction for all of the United Kingdom of Great Britain and Northern Ireland.

**6.15 pm**

**Andrew Percy:** It is a pleasure to follow the hon. Member for Strangford (Jim Shannon). I am also pleased to speak so soon after my hon. Friend the Member for Chatham and Aylesford (Tracey Crouch), who has done a fantastic job in highlighting this issue and fighting for her constituents, not just on this Bill but on the Bill that became the Legal Aid, Sentencing and Punishment of Offenders Act 2012, when we had a rebellion in this House which, I am proud to say, led to changes in the other place as well. I was happy to be part of that.

This is a big issue for my constituents and for those of my neighbour, the hon. Member for Scunthorpe (Nic Dakin), who is on the Opposition Front Bench as a Whip today and so cannot speak. We have a mix of industries across our region, including the steelworks,

**7 Jan 2014 : Column 262**

which are largely in his constituency but also in mine. We have a shipbuilding past, particularly in Goole, and I have in my constituency a number of former coalminers and a lot of power station workers who, even today, are affected by this.

**Mr Slaughter:** I entirely agree with the hon. Gentleman about the debate on LASPO in which Government Members played a strong part, as did Members in the other place. It is regrettable, though, that the Government are not going ahead with any changes to the provisions in LASPO, as was announced just before Christmas.

**Andrew Percy:** Indeed. My hon. Friend the Member for Chatham and Aylesford just whispered to me that new clause 3, tabled in the name of the right hon. Member for Wythenshawe and Sale East (Paul Goggins), who obviously, very sadly, cannot be here, would have progressed that matter as part of this Bill.

I will comment more on my unhappiness with some aspects in a moment, but I was regaling the House on the importance of this issue for constituents in my area, several of whom have been to see me. They do not just come from the traditional industries. Very sadly, a lady who is a former schoolteacher recently came to see me who has the difficulty of having worked for a number of different education authorities and suffers from this terrible disease. It is very sad when we meet these individuals because, as hon. Members have said, a diagnosis of this disease is a death sentence. That should not be forgotten in any of our debates, and I do not think it has been.

I am proud that the Government have introduced this Bill. Members in all parts of the House recognise that we now have a scheme that will provide for hundreds of people who otherwise would not have been provided for, and that is certainly progress. I am a little saddened that some of the debate turned into an attack on insurance companies, although I understand that there is legitimate cause for concern about the behaviour of some of them. I voted for the 80% compensation amendment because I felt that the extra £6,000 was significant and deliverable, and, like other Members, I could see no reason why insurance companies would walk away from such a deal. That £6,000 would have made a very significant difference to people in my constituency who suffer from this disease and who often live in some of the poorest areas.

I pay tribute to the Government for introducing this Bill and getting the scheme in place. I am sad that the Bill is not as good as some of us would have liked it to be, and I hope that that will be considered when it is reviewed. The hon. Member for Stretford and Urmston (Kate Green) said that we would rather not pass legislation and then have to review it, but would rather it were perfect from the start. I suspect that there are very few pieces of legislation where that is the case, and this will clearly not be one of them.

I just want briefly to say, on behalf of my constituents who will benefit from this Bill, how pleased I am that something is in place. It may not be exactly what we wanted—some of us have tried to make it better and I am sorry we have not succeeded in doing so—but the

scheme is to be welcomed and I hope we can all now support the Bill. I hope there will not be a Division, but if there is I shall be more than happy to support the Bill.

### **7 Jan 2014 : Column 263**

6.20 pm

**Mr Slaughter:** I am grateful for the opportunity to speak in this Third Reading debate. I have not taken part in the Bill's previous stages, but I have followed it very closely and I will confine my comments to one specific point. It was raised in Committee on 13 December and was the subject of new clause 3, which was not selected for debate on Report.

**Madam Deputy Speaker (Dawn Primarolo):** Order. I am sorry to say to the hon. Gentleman that this is the Third Reading debate. It is not a debate about amendments that were not selected or a Second Reading debate. The Third Reading debate is about the Bill as it now exists. I am afraid that the hon. Gentleman will be out of order if he tries to make a speech that goes beyond the contents of the Bill as it appears now before the House. The hon. Gentleman is experienced in this House and I know that he will stick closely to that.

**Mr Slaughter:** I will indeed, Madam Deputy Speaker. I referred to new clause 3 simply because it was tabled by my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins). I was present when the Minister paid tribute to him earlier and I just wanted to add my voice to that, because my right hon. Friend has been of great assistance to me on this issue elsewhere. I think he would have wanted to address the issue.

If the shadow Minister, my hon. Friend the Member for Stretford and Urmston (Kate Green), was right to say in her response to my earlier intervention that the Bill no longer gives recourse to the matters dealt with under sections 44 and 46 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, it would be helpful if the Government could make that clear. The Bill

### **7 Jan 2014 : Column 264**

has received qualified support from Members on both sides of the House and it would be helpful if those outstanding matters could be satisfactorily addressed.

There is an outstanding consultation or review to be had; the Government have not been clear about exactly what it will be. My right hon. Friend the Member for Wythenshawe and Sale East raised matters of serious concern. There has not been a proper consultation so far with regard to LASPO. The hon. Member for Brigg and Goole (Andrew Percy) has just alluded to the fact that when the issue was debated in both Houses there was a very strong feeling that mesothelioma should be exempt, but that is not being honoured by the Government.

**Madam Deputy Speaker:** Order. *[Interruption.]* The hon. Gentleman will sit down. I spoke to him very gently earlier. He has been in this House a long time and we all hold the right hon. Gentleman to whom he is referring in the very highest regard, but, frankly, the hon. Gentleman is now drifting considerably from this Bill and I now want him to refer only to the Bill or to conclude his remarks. I do not want him to refer to justice or other things; I want him to refer to this Bill and its contents.

**Mr Slaughter:** I am grateful for that guidance, Madam Deputy Speaker. I have made the point that I wanted to make. I simply say to the Minister that, as this Bill stands on Third Reading, it would be helpful if the outstanding matters connected with mesothelioma could be dealt with properly and the Bill was not used as a way of occluding them.

*Question put and agreed to.*

*Bill accordingly read the Third time and passed, with an amendment.*

**7 Jan 2014 : Column 265**

### **Welsh Grand Committee**

**6.25 pm**

**The Leader of the House of Commons (Mr Andrew Lansley):** I beg to move,

That

(1) the matter of—

(a) the Autumn Statement as it relates to Wales, and

(b) the Government Response to Part I of the Commission on Devolution in Wales

be referred to the Welsh Grand Committee for its consideration;

(2) the Committee shall meet at Westminster at 9.30am and 2.00pm—

(a) on Wednesday 22 January to consider the matter referred to it under paragraph (1)(a);

(b) on Wednesday 5 February to consider the matter referred to it under paragraph (1)(b); and

(3) on each such day, the Chair shall interrupt proceedings at the afternoon sitting not later than two hours after their commencement.

The House will recall that Standing Order No. 108 specifies that a motion may be made by a Minister of the Crown providing for the Welsh Grand Committee to sit on specified days at Westminster or in Wales, at such hours as may be specified. The motion will allow the Welsh Grand Committee to meet twice in the next month to consider the autumn statement as it affects Wales and, separately, the Government's response to part I of the Commission on Devolution in Wales. The sittings will take place on Wednesday 22 January and Wednesday 5 February at Westminster. They have been proposed in consultation with the Opposition and Plaid Cymru.

**7 Jan 2014 : Column 266**

The timing of the second sitting has been scheduled with the intention of informing the work of the Welsh Affairs Committee as it undertakes pre-legislative scrutiny of the draft Wales Bill. The House will recall that the Secretary of State for Wales made a statement on 18

November. The draft Bill was subsequently published on 18 December, following publication of the UK Government response to the Silk commission's first report on the devolution of tax and borrowing powers to the National Assembly for Wales and the Welsh Government. The House will further recall that the UK Government agreed to almost all the recommendations, in whole or in part.

The Welsh Affairs Committee will take evidence on the draft Wales Bill this month, including at an oral evidence session on Tuesday 14 January. The Committee has set a deadline for written submissions of Thursday 16 January. It is the intention of the Committee to report in late March on the two main areas of the Bill—the devolution of taxation and borrowing powers, and the electoral arrangements for the National Assembly for Wales. A meeting of the Welsh Grand Committee in the form proposed in the motion and focused on the devolution of taxation and borrowing powers will enable it to inform the pre-legislative scrutiny of the draft Bill.

The two sittings will be the 10th and 11th Welsh Grand Committee sittings held during this Parliament. Since the 2010 general election, the Welsh Grand Committee has debated Budgets, Queen's Speeches, the Commission on Devolution in Wales, legislative programmes, energy matters and the comprehensive spending review. The 2013 autumn statement and the draft Wales Bill can now be added to that long list. I commend the motion to the House.

*Question put and agreed to.*

**7 Jan 2014 : Column 267**

### **Dementia Care and Services**

*Motion made, and Question proposed, That this House do now adjourn.—(Anne Milton.)*

**6.27 pm**

**Alec Shelbrooke (Elmet and Rothwell) (Con):** Dementia services need to be addressed now. According to the Office for National Statistics, by 2030 the number of people entitled to draw a pension will be 15.6 million, of whom more than 3 million will be over 85. Society has done much to prolong lives through a focus on helping ageing bodies and faulty organs, but for too long help for the brain has not kept pace with that for the rest of the body.

With an ageing population, it is no surprise to hear the worrying prediction that 1 million people will be living with dementia by 2021, up from 800,000 today. There is obviously a massive financial worry resulting from the figures, especially when dementia is already predicted to cost the UK economy £23 billion a year, which is more than cancer, heart disease or stroke. It is therefore crucial to have plans in place that are proven to deal effectively and compassionately with dementia and that can be improved and expanded as necessary over the next 10 years.

Aside from the economic argument, the more pressing issue for me is that of compassion, care and support. When my grandmother was diagnosed with dementia 25 years ago, little support or information was available for carers. Painfully aware that the last two years of her life were spent with little memory or recognition of family members, I now wish that she

could have received an earlier diagnosis, so that we could have found professional help much earlier.

To put the problem that we face in context, I will give some statistics from the Alzheimer's Society, which has been hugely supportive during my preparation for this debate and has worked to raise awareness of these issues in Parliament and throughout the country. One in three people over 65 will die with dementia. Two thirds of care home residents have some form of dementia. There are 600,000 family carers of people with dementia. It is estimated that a quarter of hospital beds are occupied by people with dementia. The most poignant statistic for me when I was preparing for this debate was that dementia is now the most feared health condition among people aged over 55.

**Steve Rotheram (Liverpool, Walton) (Lab):** I congratulate the hon. Gentleman on securing this debate on such an important issue. As we know from previous debates, this issue is close to the hearts of many people in this Chamber who have first-hand experience of dementia. Given what he has said about people living longer, which is to be welcomed by everyone, does he agree that one of the most important things that we can do is to ensure that there is better co-ordination in the research into the prevention of dementia? The issue of treatment is secondary. Preventing people from getting dementia is surely the most important thing that we can do.

**Alec Shelbrooke:** I am grateful for the comments that the hon. Gentleman has made. He is right that we must not only treat the illness, but consider what preventive work can be done. I will speak later about the need for

#### **7 Jan 2014 : Column 268**

the national strategy to focus not only on the treatment of people with dementia, but on what other research can be done.

It is obvious that dementia is on the radar of an ageing society. However, given the emotional toll of dementia and its prevalence at the end of life, I was horrified to hear that only 48% of people who live with dementia receive a formal diagnosis, meaning that many people are denied the care and support that they and their loved ones need. Before the national dementia strategy for England was introduced in 2009, the rate was 33%. If further proof were needed that dementia care and services need to be improved as soon as possible, those awful diagnosis rates should be enough to show that something needs to change.

I am proud to be part of a coalition Government who have shone a long-overdue light on dementia, not least through the Prime Minister's decision to host the G8 summit on dementia last month. However, there is still much to do before we can be confident that everyone who is living with dementia—individuals and families—is able to have a fulfilled life.

**Neil Parish (Tiverton and Honiton) (Con):** It is good that the hon. Gentleman has secured this debate. It is not only the people who are suffering from dementia who are badly affected, but those who are looking after them. We must therefore not only get the diagnosis right for those who are suffering from dementia, but ensure that there is respite care for those who are looking after them. They need a break in order to fulfil their caring role properly.

**Alec Shelbrooke:** I am most grateful to my hon. Friend for those comments. I am sure that everybody has experiences of their own, but perhaps it will help the House if I speak about my grandmother, as I did earlier. I was aged about 12 or 13 at the time of her diagnosis, and my sister was two years younger. My dad was working as a teacher and supporting me, my mum and our family, but he was also dealing with his own mother. I remember the toll that that took on him. He had to work out what was the best thing to do for his mother. He toiled over the decisions that he had to make for a long time, such as selling the family home in which he had been born and brought up in order to raise money for the care home. My hon. Friend is right that there is a massive toll on the families involved, as well as on the people who have this terrible disease.

Despite the focus on dementia, there is a danger that the momentum that has been created by the Prime Minister's challenge on dementia, the G8 summit and the work of the Science and Technology Committee and the all-party parliamentary group on dementia will be lost if the Government do not act in a number of areas.

**Jim Shannon (Strangford) (DUP):** I thank the hon. Gentleman for bringing this matter to the House for consideration. Every one of us will have knowledge of this matter personally and from our position as elected representatives. One of the homes in my area has 23 residents and 20 of them have dementia. The magnitude of the problem is tremendous. Does he agree that an exchange of medical information would be helpful? Northern Ireland has the highest diagnosis level in the

#### **7 Jan 2014 : Column 269**

United Kingdom. Perhaps it is time to exchange the knowledge in Northern Ireland, Scotland, Wales and England to come up with a strategy for the whole of the United Kingdom of Great Britain and Northern Ireland.

**Alec Shelbrooke:** I am most grateful to the hon. Gentleman. I am sure the Minister heard his comments and will perhaps reflect on them when he sums up the debate.

I was talking about a number of areas. First, to continue making improvements along the current trajectory, it is crucial that the national dementia strategy for England is updated from the 2009 version. That strategy identified 17 key objectives for the NHS and social services aimed at improving the commissioning of dementia services, the quality of care delivered in hospitals and care homes, developing a clear picture of research and evidence needs, and providing support for carers. Will the Minister please outline what meetings have taken place about the effectiveness of the NDSE, and say what plans he has for a formal evaluation of it?

Secondly, in spite of the obvious benefits of the national strategy, so far the Government have made no plans to renew it. I welcome the Prime Minister's challenge on dementia, which is ambitious in its plans and places a welcome political spotlight on the issue. However, that challenge alone does not provide the breadth of detail needed to guide health and social care services to make improvements, and neither does it carry enough accountability measures, which a national strategy would do.

A new national dementia strategy, with guidance for commissioners of health and social care, GPs, hospital trusts, care homes, and others, must be published before the current strategy expires in April this year. It does not seem to be a new trend of coalition Government not to

renew national strategies, because in 2011, new national strategies for cancer and chronic obstructive pulmonary disease were published, and one for hearing loss is due.

**Hazel Blears (Salford and Eccles) (Lab):** I have been listening carefully to the hon. Gentleman who is making an eloquent and powerful case. His point about the strategy is fundamental. We have a system of different clinical commissioning groups, and a lot of fragmentation, and we need a holistic strategy that brings together the national effort. All credit to the Government for pursuing the issue, but I echo what the hon. Gentleman is saying about the need to renew the national strategy to maintain that momentum and energy, and ensure we get good services across the country. Will the hon. Gentleman join us all in continuing to press the Minister for renewal of the strategy?

**Alec Shelbrooke:** I am most grateful to the right hon. Lady, and I congratulate her on the work she does with the all-party group on dementia. She and all hon. Members will recognise that on this subject the whole House is fairly united in trying to get the Government to make those changes, regardless of whether we sit on the Government or Opposition Benches.

Our international partners, many of which attended the G8 summit in December, have ambitious long-term plans. In the US, for example, President Obama published a dementia strategy that runs until 2025, well beyond

#### **7 Jan 2014 : Column 270**

his own term as President. France has recently published its fourth dementia strategy. The economic case for having a clear directive for dementia is overwhelming. Dementia costs the UK £23 billion a year, which is more than cancer, stroke or heart disease, yet the annual research spend into dementia is about £51 million, rising to £66 million in 2015. That compares with £521 million spent on cancer.

The ambition announced at the recent G8 summit to double the spend on research in the UK by 2025 is an excellent step forward, but a new national dementia strategy that covers all aspects of dementia, including research into prevention and finding a cure, will ensure that the momentum gained from the good work undertaken by the coalition Government will be turned into improvements for people affected by dementia. To be clear, I am not suggesting that money be taken from the other crucial health causes I have mentioned; I wish merely to illustrate the numbers involved.

What plans does the Minister have to renew the current national strategy on dementia? That point was left unanswered in the Backbench Business Committee debate last year. As past statistics have shown, the introduction of a national strategy for dementia in England has caused a rise in the rate of diagnosis, although the level is still worryingly low at 48%. More needs to be done on prevention, particularly further investigation into whether the small change of introducing homocysteine level tests on the NHS could act as an early warning sign in identifying the problem.

**Mr David Ward (Bradford East) (LD):** Bearing in mind what the hon. Gentleman has said about low diagnosis rates, does he agree that the national strategy should include promoting greater awareness for many of those close to dementia sufferers who do not identify with the condition? They think people are just losing their hearing or becoming visually impaired as

they grow older, and the diagnosis is then made far too late because symptoms are not realised early enough.

**Alec Shelbrooke:** That is a very helpful intervention from my hon. Friend. I will move on to cover some of the care homes in my constituency that are tackling those issues as one, but as my hon. Friend says it is important that a national strategy has accountability written into it so that these issues can be tracked as we move forward.

More than half of people with dementia cannot access the treatment, services and support they need because they have not officially been diagnosed. Furthermore, carers of people living with dementia also suffer. They have the uncertainty of knowing that something is wrong with their loved one, but have no official diagnosis. Patients and carers are therefore denied expert support through health and social care services and often feel that they cannot approach organisations such as the Alzheimer's Society without a proper diagnosis.

In my constituency, the two clinical commissioning groups that are spread across Elmet and Rothwell have wide-ranging and impressive plans to increase diagnosis rates, but their ambition can go even further. Currently, NHS Leeds North diagnoses 50.85% of people with dementia, while NHS Leeds West CCG is only slightly better with 54.35%. My constituency reflects the picture across the rest of the country, meaning that half the people living with dementia are denied the certainty of a diagnosis.

**7 Jan 2014 : Column 271**

**Heather Wheeler (South Derbyshire) (Con):** I congratulate my hon. Friend on securing this debate. Will he congratulate the staff of Lloyds bank in Swadlincote high street who have taken the Alzheimer's Society as their charity of the year? The local Alzheimer's carers group works there and raises hundreds of pounds every month for that very important cause.

**Alec Shelbrooke:** My hon. Friend eloquently describes the work going on in her constituency to raise funds for this very important issue. I wish to add my congratulations to my hon. Friend the Member for Chatham and Aylesford (Tracey Crouch) on her dedicated work and on securing the debate last month, as well as to the right hon. Member for Salford and Eccles (Hazel Blears) and my right hon. Friend the Member for Sutton and Cheam (Paul Burstow). I hope that the recent momentum achieved by the efforts of the all-party parliamentary group to shed light on this issue will result in achieving the aim—backed by NHS England—of 66% of people with dementia receiving a formal diagnosis by 2015. It can be done, as some CCGs already have a 70% diagnosis rate. Can the Minister shed any light on why individual CCG diagnosis rates are so varied and do not add up to the NHS England ambition of 66%? Are there any plans to investigate further the effectiveness of homocysteine tests on the NHS?

**Bob Stewart (Beckenham) (Con):** Is this not a very human problem? Diagnosis rates will depend entirely on whether people go to see their doctor, who, using a simple test, identifies whether someone has dementia. It is a bit unfair to say one CCG has a better rate than another because the determinant of the rate of identification is whether people go to see their doctor or are taken to see them by family and carers.

**Alec Shelbrooke:** I seem to be one page behind the House in my speech this evening, because interventions keep pre-empting the next part of my speech. My hon. Friend is correct

that we need wider support. I have become a dementia friend, as I know many other hon. Members have.

The aforementioned points all combine in reality to have an impact on post-diagnostic support, as well as the support for those who have not been diagnosed but need care. In my constituency, some inspiring examples make me feel optimistic that dementia can be dealt with effectively and compassionately. I have seen first-hand that such support, delivered well and early in a person's dementia journey can lead to better outcomes.

**Jim Shannon:** There have been great advances in medication. If people get an early diagnosis, medication can give them an extra five to six years of quality life. Does the hon. Gentleman agree that it is important that medication is available across the whole United Kingdom to give people with dementia or Alzheimer's a better quality of life?

**Alec Shelbrooke:** I thank the hon. Gentleman for that intervention. He makes important points that reflect what the hon. Member for Liverpool, Walton (Steve Rotheram) said earlier: it is not just about treating the disease when it is there, but about how much preventive work can be done in the first place.

#### **7 Jan 2014 : Column 272**

As I said at the start of my speech, I wish only that some of the strategies, diagnoses and drugs that are now available were there for my grandmother 25 years ago. I was only about 11 to 13 years old in the two years before she finally went into a home, but I realise in hindsight how her quality of life was slipping away. I talked about the toll that that took on my father when he was trying to do what was best for his mother. He would be at work all day. His mother lived in south-east London while we lived 20 miles away in Kent and he would get a phone call at 3 am from her next-door neighbour saying, "Your mother"—she was in her late 70s—"is out walking the street in her nightgown." Those are the pressures and there was nothing in place at that time. She was still living on her own and, as her grandchildren, we would still visit her. Today, I believe that she would have had a better quality of life.

I am encouraged by some of the things that are going on. I want to draw attention to a chap called Paul Mancey and his team at Orchard Care Homes. They are located in my constituency and are developing care partnerships between charities and care providers, which is very much what my hon. Friend the Member for Bradford East (Mr Ward) was talking about. This new approach means that residents are tested for hearing loss, diabetes and dementia symptoms on entry to the care home, ensuring that appropriate care packages are put in place.

Many other care homes are developing innovative ideas, too. I am pleased to say that care homes have developed immensely since we moved my grandmother into one in the early 1990s, and even more delighted that the leading company on the development of care villages is located in my constituency. Graeme Lee and his team at Springfield Healthcare have set the bar on building a quality and comfortable dementia-friendly care village at Seacroft Grange, which is located in the constituency of the hon. Member for Leeds East (Mr Mudie).

As is often the case, however, the truly inspirational support networks are not those provided by the professionals. My hon. Friend the Member for Beckenham (Bob Stewart) talked about

early diagnosis, and there are community champions. One community champion in my constituency is Peter Smith, who established the Tea Cosy Memory Café in Rothwell, which provides a welcoming place for those with dementia and their carers, as well as making Rothwell the first dementia-friendly community in Leeds.

The Alzheimer's Society has done great work to promote awareness of dementia. Hon. Members can play a greater role, too, in raising awareness. I alluded to the fact that, like many Members, I am proud to be a dementia friend and to support the work of the Alzheimer's Society. I urge as many Members as possible to become a dementia friend and to help the Alzheimer's Society.

**Hazel Blears:** I am delighted that the hon. Gentleman is a dementia friend. Will he join me in encouraging all Members to make their constituency offices dementia friendly? We have just embarked on this journey. We are looking at special signage and at constituency letters to ensure that they are written in a way that people can understand, and all my constituency staff have been trained to be dementia friendly. If every Member of Parliament's constituency office was dementia friendly, that would be a significant step forward. Perhaps we could work together on that.

**7 Jan 2014 : Column 273**

**Alec Shelbrooke:** I hugely welcome what the right hon. Lady has just said. Perhaps I could be cheeky and suggest that she e-mail every one of us in this House to outline what she has been doing in her constituency office, because sharing information and best practice is the best way we can help people on this journey. I look forward to working with her.

I urge as many people as possible to become dementia friendly and help the Alzheimer's Society achieve its goal of creating a network of 1 million friends across the UK by 2015.

Those examples prove what many health professionals know: that peer support networks and dementia advisers are effective in providing information to people with dementia and their carers, and they are valued by service users. They should therefore be supported and I welcome the "Carers call to action" campaign by the Dementia Action Alliance to promote this particular facet of the issue—not to mention that they are a relatively cheap intervention that also raises awareness of dementia and tackles stigma.

What are the Government doing to improve post-diagnosis support and what plans does the Minister have to ensure that all people with dementia have access to a dementia adviser or to equivalent suitable named carers?

**6.49 pm**

**The Minister of State, Department of Health (Norman Lamb):** I congratulate my hon. Friend the Member for Elmet and Rothwell (Alec Shelbrooke) on securing another debate on dementia. It is important that we maintain the pressure, keep talking about this subject and keep challenging ourselves to take the necessary further steps. I am delighted to hear he is a dementia friend. I hope that everyone in the Chamber this evening is a dementia friend. *[Interruption.]* There is lots of nodding, which is encouraging.

**Bob Stewart:** Will the hon. Gentleman define exactly what a dementia friend is so that those of us who are not yet one can understand what we should do?

**Norman Lamb:** I am delighted by that intervention, because it gives me the opportunity to say something very quickly about the initiative being taken by the Alzheimer's Society. If someone applies to be a dementia friend, they can go along to an hour-long session on understanding dementia better. It is very illuminating to go through that process. We got the initial idea from Japan, where it has gathered enormous momentum. If we can get a million people across society who better understand dementia, it could have an enormously powerful impact by making our communities more dementia friendly and understanding and giving people with dementia a better life. I would therefore encourage my hon. Friend to become a dementia friend.

The right hon. Member for Salford and Eccles (Hazel Blears) talked about her constituency office. I will accept the challenge she laid down. I absolutely accept the case she makes. We are all serving the public, and it is critical that we make our own facilities friendly for people with dementia and their carers. My constituency office staff do not know this yet, but I will encourage them to go through this process, as all right hon. and hon. Members should.

#### **7 Jan 2014 : Column 274**

I was struck by the constituency examples that my hon. Friend the Member for Elmet and Rothwell gave. He mentioned Paul Mancey of Orchard Care Homes, which is ensuring that people entering care homes get proper care and support and that their particular needs are met, and the Springfield Healthcare initiative.

**Glyn Davies (Montgomeryshire) (Con):** I thank the Minister for allowing me to intervene on an issue that, usually because of personal experience, is close to our hearts. He speaks of the importance of care homes, understanding dementia and caring for sufferers properly, but does he agree that the best treatment is care in the home of the person suffering from dementia? In my experience, a change in circumstances advances dementia faster than anything else. By far and away the best way to treat people suffering from dementia is to make it Government policy to support people to stay in their own homes.

**Norman Lamb:** I broadly agree with my hon. Friend. The most important thing is that the care and support should always be right for the individual. Whatever they need they should be provided with. I recently visited the most amazing GP surgery in Gnosall, Staffordshire, which has managed—this demonstrates a point that my hon. Friend the Member for Elmet and Rothwell made about the variability of dementia diagnosis rates—to achieve diagnosis rates of close to 100%. That demonstrates what is possible. Most of the diagnosing is done in the community within primary care without referral to a memory clinic. What they have found is that by getting early diagnosis and then having very good community follow-up and support—the general practice is central to that—people are staying in their own homes and maintaining a good life for far longer and the admissions to care homes and nursing homes are significantly reduced. That demonstrates what is possible and confirms the point that my hon. Friend the Member for Montgomeryshire (Glyn Davies) made.

**Steve Rotheram:** Will the Minister give way?

**Norman Lamb:** I will. I am still on page one of my speech.

**Steve Rotheram:** I thank the Minister for giving way. He is absolutely right about the individual care package that somebody who, unfortunately, has dementia or Alzheimer's gets. Thankfully, long gone are the days when somebody was given a couple of tablets in the hope that that might somehow affect their condition. Is he aware of the House of Memories project in Liverpool? Is he also aware that there is an event that I am hosting here on 17 June that Members of this House are welcome to attend?

**Norman Lamb:** I thought for a moment that the hon. Gentleman was not going to mention the House of Memories. He always does. Of course I am aware of it because he keeps talking to me about it and knows what I think. I am incredibly impressed by it and there is a plan for me to visit and see it for myself. He is right constantly to make the case for it and for spreading what has been demonstrated is possible in Liverpool to other parts of the country.

### **7 Jan 2014 : Column 275**

It is less than two months since the last debate on dementia and it is a measure of the importance that Members put on the subject and the extent of the challenge that we face as a nation that, thankfully, the House has recognised the importance of debating it regularly. It is also less than two months since we published our dementia state of the nation report, which sets out the progress that we have made on dementia and the challenges we are facing.

The report is an incredibly important document because it also includes online a set of interactive maps that, for the first time, allows someone to enter their postcode to see how their local dementia services are performing and how that performance compares with the rest of the country. Having this level of transparency, as well as the extent to which people will be able to hold their own local areas to account, will have a big impact on driving up diagnosis rates. I have already made the point that some parts of the country have demonstrated that high diagnosis rates are possible. There is no rocket science here and no reason why other parts of the country cannot follow suit, understand and learn that best practice and, critically, apply it to ensure that people get the support they need.

My hon. Friend the Member for Elmet and Rothwell is absolutely right when he makes the point that unless someone has had that diagnosis, they do not get access to the advice, guidance, support and services that are potentially available in a local area to make the life of that individual better and, critically, to provide more support for the carer as well. The maps highlight the variation in dementia care across the country and allow people, but also commissioners and providers, to use the data to see how they compare against other areas and then work to deliver improvements.

Around the world, someone is diagnosed with dementia every four seconds. Over 35 million people have it and as people live longer than ever before that is set to double every 20 years. Among them, 58 per cent. live in low to middle income countries and this proportion is projected to rise to 71 per cent. by 2050. We cannot ignore the pressure on our health and care systems and dementia costs society as a whole as much as £23 billion in the UK alone. The cost of dementia worldwide has been estimated at about £400 billion, or 1 per cent. of the world's GDP. This is why dementia is a major priority for the UK Government and why the Prime Minister launched a dementia challenge in 2012. But we must fight back on an international scale, breaking down barriers and joining forces to address this issue, which has such an enormous human and economic cost.

Five years ago, the national dementia strategy was developed. It has achieved a lot, laying the foundations for real change. We are currently evaluating progress on dementia and on how we have achieved improvements in dementia care, and we are looking at both the national dementia strategy and the Prime Minister's challenge. I shall come back later to the point about what comes after, and it seems to me sensible first to understand—

7 pm

*Motion lapsed (Standing Order No. 9(3)).*

*Motion made, and Question proposed, That this House do now adjourn.—(Anne Milton).*

### **7 Jan 2014 : Column 276**

**Norman Lamb:** That was unexpected; I have never had this happen to me before, so I apologise for looking confused! I shall carry on.

It makes sense to understand the success—and, indeed, sometimes the failures—of the current strategy and the Prime Minister's challenge before designing what follows on afterwards. It is absolutely clear—I have tried to demonstrate this on other occasions—that something must follow; there must be a continuation. This disease has such a profound impact on people and on society that we have to keep developing our understanding and maintaining the momentum.

**Hazel Blears:** I am grateful for the Minister's commitment that there will be a follow-on from the dementia strategy. He is right to look at what has worked and what might not have worked quite so well. My concern is that whatever comes next must find a way of uniting the whole system. In proceedings on the Care Bill, we debated integration and how important it was, particularly for dementia, because it will save us money. When the Minister looks at the next set of strategies, I urge him to bear in mind that the country must not have in place a set of fragmented relationships that are not bringing the system together to make things better for people with dementia and their carers. The economic impact on the country is also important.

**Norman Lamb:** I very much agree with the right hon. Lady on that. I think that what she argues for is developing. We are not there yet, but it is important that we have developed this ambition to achieve a diagnosis rate of two thirds, which encourages every part of the system to focus on what it needs to do. It is not a nationally imposed arbitrary target; it was based on getting every part of the system to think about what it can achieve by setting ambitious objectives. Collectively, that amounts to an ambition to achieve a two-thirds diagnosis rate, but in itself, of course, a two-thirds diagnosis rate is not good enough. We should not be satisfied when we achieve that; we have to press on. We know that the community in Gnosall has a diagnosis rate of close to 100%, so we should not be satisfied until everyone is getting properly diagnosed on a timely basis. I agree with the right hon. Lady's point. Under the new system, with the health reforms making clinicians much more involved in the commissioning of care locally, there is a greater chance of getting the engagement of general practice across the country than we perhaps had in the past through the primary care trust route.

**Jim Shannon:** Has the Minister had an opportunity to consider the point I made in my intervention on the hon. Member for Elmet and Rothwell (Alec Shelbrooke), which was about the exchange of good practice and information between the four regions of Scotland,

Northern Ireland, Wales and England? Ever mindful that the highest levels of diagnosis for the whole of the United Kingdom are found in Northern Ireland, has the Minister had a chance to discuss these matters with the Health Minister, Edwin Poots from the Northern Ireland Assembly, for instance, to take the issue forward? We all gain from good practice across the whole of the United Kingdom of Great Britain and Northern Ireland, and we all gain from the exchange of good ideas.

**7 Jan 2014 : Column 277**

**Norman Lamb:** I completely agree. This disease knows no country boundaries. We all face the same challenge across the whole of the UK and, critically, across the world. That is why we pursued the matter in the G8 summit of December. There should be good collaboration across the UK through all of the devolved Administrations and the Government here. I am always happy to engage with colleagues from Northern Ireland to understand what we can learn from Northern Ireland and also because the exchange of information helps everybody to improve.

We recognise the need to build on the strategy. That is why the Prime Minister's challenge on dementia is now the main vehicle for change and improvement across health and care, in the community and for the purposes of research. The Prime Minister's challenge runs until 2050, not just outliving the dementia strategy, but broadening its vision and providing better accountability.

Last year we hosted the G8 dementia summit. I was delighted that the right hon. Member for Salford and Eccles participated in it, and challenged me during one of the sessions. The summit attracted interest all over the world, and harnessed the efforts and expertise of the G8, health and science Ministers, the World Health Organisation, the OECD, industry, researchers, philanthropists and civil society to secure much greater international collaboration in order to tackle and defeat dementia. The declaration and communiqué announced at the summit set out a clear commitment to working more closely together on a range of measures to improve early diagnosis, living well with dementia, and research.

The G8 announced an ambition to identify a cure or a disease-modifying therapy by 2025, which we hope will focus minds internationally. It is backed by a commitment to increase significantly, together, the amount spent on dementia research—we know that at present it is a fraction of the amount committed to research in other areas of medicine—and to increase the number of people involved in clinical trials and studies of dementia. The United Kingdom has committed itself to funding a global dementia innovation envoy to draw together international expertise, stimulate innovation, and co-ordinate international efforts to attract new sources of finance. That will be incredibly important if we are to crack this disease.

In partnership with the OECD, the WHO, the European Commission, those involved in the EU joint programme on neurodegenerative disease, and civil society, the G8 will hold a series of high-level forums throughout 2014 on social impact investment—it will be critically important to attract new sources of funding—new care and prevention models, and academia-industry partnerships, which will also be extremely important. The G8 will meet again in the United States in February 2015, along with other global experts including the WHO and the OECD, to review the progress that has been made on the research agenda. That will enable us to focus minds and try to increase the momentum.

The G8 is an exciting global initiative, and I am immensely proud that the United Kingdom led the way in that regard. However, we are also keeping our focus on dementia in England, and we have made progress since the launch of the Prime Minister's challenge. We have launched a new dementia friends scheme—which has already been mentioned—to make a million people more aware of what dementia actually is, thus helping

### **7 Jan 2014 : Column 278**

to break down the barriers between people with the condition and their local communities. It is important to challenge the stigma which still exists in many places. The Alzheimer's Society has published guidance setting out the criteria for becoming a dementia-friendly community. I was pleased to hear that Rothwell, near Leeds, is becoming a dementia-friendly community: that is very good news.

The NHS continues to support dementia care in hospitals through its CQUIN scheme—commissioning for quality and innovation—which is generating between 3,000 and 4,000 referrals for diagnosis each month. We have allocated £50 million to 116 schemes to make health and care environments such as hospital wards and care homes more dementia-friendly. Making the environment in which people live with dementia more dementia-friendly is critical to the provision of a calm atmosphere. When we see places to which attention has been given and in which investment has been made, we realise what a difference can be made. The Government's mandate for the NHS prioritises dementia, and, as I said earlier, includes the ambition of a diagnosis rate of two thirds. My hon. Friend was right to say that the current rate is far too low. We are letting people down in many parts of the country by not securing early diagnosis.

**Mr Ward:** Obviously there is an opportunity to do something once a person has been identified as needing a diagnosis, but in my experience the problem is that other things are usually taking place in people's lives, and GPs often assume that they are just part of the ageing process. There is a failure, often because of the lack of skills of the GPs, to recognise that diagnosis is required.

**Norman Lamb:** My hon. Friend is absolutely right and there are still GPs who do not really believe in the importance of a timely diagnosis. I have heard GPs say, "What's the point, because it will make no difference?" However, we know it does make a massive difference not only to the person with dementia but the rest of their family, in understanding the condition and what they can do to help. Education among GPs is incredibly important, and attitudes are changing but we still have a way to go.

Clinical commissioning groups are working with their local councils and other partners to better understand how widespread dementia is in their communities, including among people living in local care homes. This will mean they can identify and support people with dementia in a timely way. GPs are now able to use the new directed enhanced service to improve the diagnosis of dementia by asking people in certain at-risk groups about their memory. This proactive approach should help to identify patients who are showing the early signs of dementia.

Health Education England has prioritised dementia training and has already delivered 100,000 dementia-trained staff. Again, ensuring the work force within health and care have a proper understanding of dementia is critically important.

**Hazel Blears:** I am pleased the Minister has now come on to the area of the work force. He will know that many of the carers in this area are currently paid the national minimum wage if they are lucky. Many of

**7 Jan 2014 : Column 279**

them are on zero-hours contracts. Many of them do not get paid for travelling between the appointments they undertake. We ask them to do some of the most difficult work that one can ever imagine but the rewards and the training and support they get is minimal. Is the Minister committed to tackling some of these issues in the care sector, which in my view are unacceptable?

**Norman Lamb:** I feel as strongly as the right hon. Lady does about this. We can never get good care on the back of exploiting very low-paid workers. It is not acceptable to not pay a care worker when they are travelling from one home to another. That is a breach of the minimum wage legislation unless their rate overall comes above that level. HMRC has specifically targeted the care sector and has found quite widespread abuse of, or failure to comply with, the national minimum wage. It is very important that it is complied with.

It is also important for councils commissioning care to be absolutely clear with those they contract with that they expect total compliance with the law. If a council is commissioning in a way which almost becomes complicit in a breach of the law, that is completely unacceptable. Some of the commissioning around the country is very poor and we have got to move on from commissioning on these 15-minute, short-time periods resulting from contracts being opened up for bids and there being a race to the bottom with the cheapest offer winning the contract. We have got to move on to commissioning for quality and for better outcomes.

Wiltshire has now introduced commissioning for home care based on outcomes and quality. One of the care providers now pays salaries to its care staff. So the whole attitude and approach changes and the incentive on the care provider is to improve care, not to get away with the quickest possible care visit.

---

[Next Section](#)