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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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

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House of Lords

Tuesday 12 July 2022

2.30 pm

Prayers—read by the Lord Bishop of Carlisle.

Schools: Financial Education
Question

2.37 pm

Asked by ***Baroness Sater***

To ask Her Majesty's Government what progress they have made with improving the delivery of financial education to 11 to 16 year-olds since it became a statutory part of the citizenship national curriculum.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, financial education is covered in citizenship and mathematics curricula. Our school snapshot survey in 2021 showed that 86% of secondary schools teach pupils how to make good decisions about money, including on spending and saving. We have been working together with the Money and Pensions Service and Her Majesty's Treasury, and will be launching webinars in the autumn to support the effective teaching of financial education.

Baroness Sater (Con): My Lords, I thank my noble friend the Minister for her response. A report last month by the Centre for Social Justice found that only 8% of students cite schools as their main source of financial education, while a Bank of England commission survey back in March found that almost two-thirds of teachers cited a lack of dedicated time in the timetable for delivery. Does the Minister agree that more needs to be done to address these worrying statistics to help our children learn how to manage their money and give them the best start in life?

Baroness Barran (Con): My noble friend is right in that we can do more to embed financial education in the curriculum. The webinars that I referred to will build on the financial education guidance for schools published by the Money and Pensions Service last year. It highlights the links between financial education and the curriculum, and how primary and secondary schools can improve the financial education that they deliver.

Lord Watson of Invergowrie (Lab): The Money and Pensions Service, to which the Minister just referred, states that money habits are formed from the age of seven, well before young people arrive at secondary school, yet only about 25% of primary schoolchildren in England receive any form of financial education. Last year, a report from the All-Party Parliamentary Group on Financial Education for Young People called on the Department for Education to introduce financial education to the national curriculum in primary schools, and to set a target of ensuring that every primary school pupil has access to it by 2030. What progress has the Minister's department made towards that target?

Baroness Barran (Con): The noble Lord will be aware that the Government made a commitment to make no changes to the national curriculum during the life of this Parliament, and that remains the case. Although citizenship is not compulsory in primary schools, as we know, many schools choose to teach it as part of their commitment to delivering a broad and balanced curriculum. The Money and Pensions Service has clear goals to ensure that 2 million more children and young people get meaningful financial education by 2030 and we are very supportive of its work in that.

Lord Lee of Trafford (LD): How is the financial education of young people helped by prohibiting grandparents taking out junior ISAs for their grandchildren?

Baroness Barran (Con): I was not aware of the point the noble Lord raises. More broadly, when you talk to young people, they say that a lot of their financial education comes from their parents and family, including their grandparents, so I agree with the sentiment that grandparents have an important role to play.

Lord Sandhurst (Con): My Lords, the fraud Select Committee has heard that far too many scams succeed because of ignorance on the part of the recipient. The Centre for Social Justice report, to which we have already heard reference, has found that two-thirds of primary school children receive no financial education and, notwithstanding what we have heard from my noble friend, that too many school leavers have no adequate financial education. What is going to be done going forward?

Baroness Barran (Con): The Government share my noble friend's concern. To be clear, in the primary citizenship curriculum pupils learn about where money comes from, how it can be used for different purposes and how to save for the future. In secondary school pupils learn about the importance and practice of budgeting, income and expenditure, insurance, savings, pensions and financial products. I think these are many of the things to which my noble friend referred.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, could the Minister sign up the Tory leadership candidates for one of these courses?

Baroness Barran (Con): I think the House will appreciate that that is way above my pay grade.

Lord Brownlow of Shurlock Row (Con): My Lords, when the Financial Services Authority—the precursor to the Financial Conduct Authority—was established, one of its key objectives was to provide education to children in this country. Would my noble friend agree that it is more than just for government policy to provide widespread financial education to children?

Baroness Barran (Con): If I have understood my noble friend's question correctly, there is a broader responsibility. When one looks at the advice given by the Money and Pensions Service, it talks very much about how schools should work with parents and carers and how to embed learning about financial issues by putting learning into practice and building on everyday events—perhaps including the current leadership campaign—to understand how money works.

Baroness Hussein-Ece (LD): My Lords, what is being done to assist care leavers, who often cannot manage their financial affairs, have missed out on the education that might have been available in schools, find themselves in desperate trouble trying to pay bills and manage and often end up homeless? Is it not time for a more comprehensive policy towards young care leavers?

Baroness Barran (Con): The Government have introduced a number of very specific measures to support care leavers in exactly the areas the noble Baroness refers to. If I may, I will set those out in detail in a letter.

Lord Young of Norwood Green (Lab): I want to return to the point made by the noble Lord, Lord Sandhurst, about children, even in primary schools, being subjected to scams and fraud, including money laundering. The list that the Minister read out made no reference to that. I think there is a gap and I ask the Minister to take this away and think about the risks and the value of advising young people of these risks.

Baroness Barran (Con): On the specific issue of money laundering, it might be helpful if the noble Lord could give me an example of what he is thinking about. Some of the risks that we know young people face—and which I know your Lordships' House is very concerned about—relate to gaming and gambling. I hope your Lordships will be pleased to know that a new subject in the health education curriculum on the risks associated with gambling and the accumulation of debt will be compulsory in all state-funded schools, primary and secondary.

Lord Vaizey of Didcot (Con): My Lords, I refer to my entry in the register on my work for Common Sense Media. I congratulate my noble friend on her excellent work at the Department for Education; for a brief period last week, she was entirely in charge of it, I think, and that was a glorious moment. One thing that our children need to be aware of is the terrible proliferation of financial scams on the internet. Has my noble friend had discussions with the Department for Digital, Culture, Media and Sport to join up financial education with general digital citizen education to give our children the tools that they need to navigate the internet?

Baroness Barran (Con): My noble friend makes a good point. My colleague the Minister for Schools Standards has been working with DCMS on exactly that.

Baroness Chapman of Darlington (Lab): My Lords, young people themselves say that they want more financial education: 81% say that they worry about money, 67% say that they have become more anxious about money as a result of Covid and 72% say that they want to learn more about money at school. What more can the Government do? At the moment, it seems that a commitment not to change the national curriculum is actually denying young people the education that they say they want.

Baroness Barran (Con): Making sure that we deliver the mathematics and citizenship curricula in a way that equips children and young people with the skills they need is a clear priority, particularly given the challenges that our schools and young people have faced over the last two years of Covid.

Lord Cormack (Con): My Lords, is it not important that young people are proud of their country and citizenship? I raise again with my noble friend a point I have made many times: would it not be a good idea, particularly bearing in mind recent events, if young people were able to graduate as citizens, as it were, and go through the sort of ceremony that newly naturalised British subjects go through? Would my noble friend please take that on board?

Baroness Barran (Con): I commend my noble friend for his continued focus on this issue. The Government have supported many young people to take part in the National Citizen Service, the Duke of Edinburgh's Award and other schemes, all of which really recognise their achievements. The Government are also introducing the national climate leaders award so that young people can be recognised for their contributions to sustainability and the future of the planet.

Cannabis: Medicinal Use

Question

2.48 pm

Asked by ***Baroness Meacher***

To ask Her Majesty's Government what plans they have to amend the Misuse of Drugs (Amendments) (Cannabis and Licence Fees) (England, Wales and Scotland) Regulations 2018 to enable general practitioners to prescribe cannabis medicines to patients whose symptoms are being substantially alleviated by such medicines currently purchased privately.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): The Government share the aim of NHS funding for licensed medicines that have proved safe and effective, rather than patients paying private subscriptions for unlicensed products that are not assured by our medicines regulator. Broadening who can prescribe these products will not achieve this. For this to happen, we need the cannabis industry to invest in clinical trials. Our medicines regulator—and the National Institute for Health and Care Research—has asked it to do so and is ready to support it when it does.

Baroness Meacher (CB): My Lords, the Minister will be aware of Bailey Williams, aged 20, who has very severe epilepsy and was hospitalised every week throughout his childhood, until the last four years, when he has been on medical cannabis—these have been his best years. His parents are struggling financially and asked Bailey's consultant to prescribe medical cannabis under the NHS; after all, NICE has approved this in its guidance. The answer was no, but palliative care was an option—palliative care but not a proven medicine that has done so well for this child for four years. The Minister cannot accept that situation. Will he meet MHRA, with me, to discuss the way forward? There has to be a way forward.

Lord Kamall (Con): First, I thank the noble Baroness for meeting with my colleague, my noble friend Lady Penn, yesterday. When I became a Minister, the Permanent Sec recognised a potential conflict of interest, which I have been told means that I cannot meet with people about this particular issue, but I can answer this Question if I declare my interest. So I better quickly declare it: I used to work for a think tank that received some funding from the medicinal cannabis industry, and I shared a round table. That immediately ruled me out as having a conflict of interest. None the less, I am very happy to facilitate meetings with my ministerial colleagues. As the noble Baroness will be aware, there is a new ministerial colleague in place at the moment. The point remains that we have asked the industry, which makes lots of money in this area, to come forward and fund trials, but it has preferred not to do so.

Baroness Walmsley (LD): My Lords, I understand that the MHRA is considering extending its compassionate access scheme, particularly regarding the import of Celixir20 from Israel. A number of children with rare forms of drug-resistant epilepsy rely on this medicine. Given the severity of the crisis of access to NHS prescriptions for medicinal cannabis, can the Minister ensure that there are no barriers to the MHRA acting now to extend this scheme?

Lord Kamall (Con): The noble Baroness raises an important point about working with the importer of those medicines. The MHRA is exceptionally continuing to allow those medicines and is hoping to work with the importer and the Israeli company itself to see whether they will go through the MHRA approval process. In Israel, there are two ways of supplying the product: one is medicinal and the another is for non-medicinal cannabis uses. It has advised us that this is not a licensed medicine in Israel, and therefore we are asking the company to come forward. In the meantime, we are looking at an interim solution.

Lord Dubs (Lab): My Lords, will the Minister confirm that, for certain very severe forms of epilepsy that affect children, medical cannabis is absolutely appropriate? Can he explain why only three such prescriptions have been issued?

Lord Kamall (Con): Yes, but I should start by saying that I have been warned a number of times that it is inappropriate for Ministers to tell doctors and clinicians what they can prescribe. In certain cases, given that it has not been regulated as a medicine in this country, doctors can make an exception and ask for it to be prescribed on the NHS. They will go to their CCG—and now to their ICS—and ask for that. However, that has been agreed to in only a few cases.

Lord Farmer (Con): My Lords, will the Government heed warnings from respected addiction psychiatrists in US states where cannabis has been legalised that medical marijuana acted as a Trojan horse to get recreational use in, that the upward trend in medical potency means that people get addicted, and that super-strength products are associated with a significant rise in cannabis-related psychosis? Are they aware that states are now tightening restrictions on cannabis prescribing, having previously liberalised it, not least given sharp increases in teenage suicides with marijuana in their systems post-mortem?

Lord Kamall (Con): I thank my noble friend for his question and note his concerns. However, I think we should look at this in two ways: there is medicinal cannabis and there is recreational cannabis, and we must be quite clear on that. Some people clearly want to liberalise both. I cannot comment on my own particular views because I am conflicted on this, but what is really important here is that we take a cautious approach and look at the particular issue of medicinal cannabis. The MHRA is ready to regulate medicinal cannabis; it just needs companies to come forward and spend money on the trials.

Lord Winston (Lab): My Lords, the Science and Technology Select Committee, which I had the honour to chair some 15 or 18 years ago, looked at the medicinal uses of cannabis. One of the things we clearly showed was that the statement we just heard is not true; in fact, there was no evidence then that the medicinal use of cannabis led to addiction in patients. Indeed, patients who were having medicinal cannabis were trying very hard not to become high and trying to use the doses in very limited amounts so that they could cure their symptoms.

Lord Kamall (Con): The noble Lord makes a very important point: whatever our personal views, we must distinguish between recreational and medicinal uses of cannabis. We know from observations and many stories that many people believe that they benefit from medicinal cannabis. We know that there is a barrier because companies have not come forward to have it regulated or go through the clinical trials, but we are trying to work with those companies and encourage them to come forward. In fact, we have also found some NIHR research money available to help with those trials. My request to the industry is: "You make a lot of money out of this—please come forward and go through those trials with the MHRA".

Baroness Jones of Moulsecoomb (GP): My Lords, there is a suspicion among those of us who think that the Government are being very slow about this that they are arguing it from a medical point of view, just

[Baroness Jones of Moulsecoomb]
as the Minister has today, but that in fact this is a political decision because the Government's right wing does not like the idea of cannabis use in this way.

Lord Kamall (Con): I do not know how to respond to that. All I will say to the noble Baroness is that nothing could be further from the truth. This is clearly an issue based on medicinal cannabis. The noble Baroness will know that my party is a coalition; there are quite a number of libertarians in my party who would take a very different view on banning these issues. What is really important is that, to be licensed as a medicine, it has to be approved by the MHRA; to be approved by the MHRA, except in very exceptional circumstances, you have to go through trials. These companies make a lot of money; they can afford to go through the trials; they are just choosing not to.

Baroness Watkins of Tavistock (CB): My Lords, NICE has actually supported the limited use of medical cannabis. It has, over many years, supported the limited use of novel drugs in cancer and heart disease, which have been readily available. Does the Minister agree that it is a national scandal that we are discriminating against some of the most vulnerable people with severe epilepsy in our country by not providing this in limited forms on the NHS pre further clinical trials?

Lord Kamall (Con): What I would say is that it is left up to the doctors, who are able to ask for it to be prescribed on the NHS. In some cases, that has clearly not been accepted and that is why people have to go privately, but the best way to solve this problem is for the industry to come forward and go through trials. The offer is open, the NIHR has money available, but for some reason the companies prefer to sell it unlicensed.

Baroness Butler-Sloss (CB): My Lords, is there not a way around this? It seems to me extraordinary that we cannot cut through this.

Lord Kamall (Con): In simple terms, I completely agree. There should be a way around this and I will take this back to the department. In fact, I was quite provocative when I was getting advice on this, but I have also been warned that I am conflicted on this issue, so I will try to push it as long as I am not seen as being in conflict. It is very difficult, but I want to do the right thing.

Baroness Merron (Lab): My Lords, we look forward to the Minister returning on this point, but to build on the points made by other noble Lords, despite the change in the law, many families are experiencing great anguish in getting treatment for young epilepsy sufferers and are left with little option but to pay thousands of pounds each month. What is the Government's view on implementing all the recommendations of the recent NHS review of the barriers to accessing prescription cannabis products for medicinal use? If they are not planning to implement all the recommendations, which ones are the Government looking at?

Lord Kamall (Con): The department has been reviewing the Hodges review and has been looking at the method of data collection. At the moment, I cannot comment on the significance of the statistics in the report, but the important thing here, I think, is that once again we are asking the industry to come forward. It can fund the trials—it can afford this—but for some reason it prefers to sell it unlicensed.

Lord Watts (Lab): My Lords, just to clarify the point that the Minister made, that it is not for him to tell doctors what medicines to prescribe, is he really saying that if doctors are failing to give their patients the proper and adequate medicines—the only medicines that work—there is nothing he can do?

Lord Kamall (Con): These are left to clinical decisions, and it is up to individual doctors. Some doctors believe that the evidence is not there to prescribe it; other doctors believe that it is there and they would like to prescribe but they go to their local CCG or elsewhere and they are not given permission or access. What we are trying to do is make sure that there is sufficient evidence, but we really need the companies to come forward. If I can make one appeal to noble Lords, if anyone contacts them from the industry, ask them to come forward and go through the trials.

International Development Strategy: Volunteering

Question

2.58 pm

Asked by ***Baroness Armstrong of Hill Top***

To ask Her Majesty's Government what consideration they have given to the role of volunteering within the United Kingdom's international development strategy.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, the UK's international development strategy has British expertise at its core. Our rich culture of volunteering means we have the experience and expertise to effectively support voluntary action abroad, ensuring that development is increasingly locally led. Last month, we launched Active Citizenship Through Inclusive Volunteering & Empowerment, a £27 million partnership between the UK Government and VSO which will reach 2.5 million people in 18 countries by empowering local volunteers to take control of their futures.

Baroness Armstrong of Hill Top (Lab): My Lords, I was delighted when the Government supported volunteering being part of the sustainable development goals as a key lever for good development, but I am bewildered that they now seem to have abandoned much of that. An agreement was signed between the VSO and the Commonwealth at CHOGM. It recognised the value to young people of learning skills, sharing with others, learning about the world and developing leadership skills, but the British Government have

abandoned the scheme. When will they get back to funding the International Citizen Service to give our young people that sort of opportunity?

Lord Goldsmith of Richmond Park (Con): My Lords, the Government agree with the premise of the question from the noble Baroness but take issue with the last bit on abandonment by the Government. The reality is that the ACTIVE programme will reach 2.5 million people—a really significant number—and mobilise marginalised groups, including women, young people and those with disabilities, across 18 countries. The key is that it builds on the success of the programme she just mentioned—the VSO's FCDO-funded £70 million Volunteering for Development programme, which ended in March 2022. The noble Baroness is right to identify it as a success.

Baroness Burt of Solihull (LD): My Lords, we all acknowledge the benefits of international volunteering to our country in terms of soft power, to the countries we work with and to our volunteers. The International Citizen Service was suspended in 2020 because of the pandemic. Does the Minister agree that the time has come to resume wielding that soft power through the ICS, which enhances our influence and reputation in the world?

Lord Goldsmith of Richmond Park (Con): My Lords, the importance of volunteering is embedded and well understood in the FCDO. That has not changed; it is reflected in everything coming out of it. Specific decisions on funding are yet to be made but, adding to what I said on the previous question, we are committed to and are already establishing new centres of expertise, building on existing platforms for shared learning and with volunteering at their heart. We are doing this across the board.

Baroness Sugg (Con): My Lords, when I visited Nepal a few years ago as DfID Minister, I met participants in the VSO-supported Sisters for Sisters programme, which mentors older girls and supported nearly 10,000 girls to stay in school. As with many voluntary programmes, women and girls really see the benefits, as both volunteers and the beneficiaries. Will voluntary work be included in the upcoming women and girls strategy? Acknowledging the current circumstances, can my noble friend tell me when this will be published, as many of us eagerly await it?

Lord Goldsmith of Richmond Park (Con): I thank my noble friend for her persistence on this issue generally. There is a clear commitment in the IDS to providing women and girls around the world with the freedom and opportunity they need to succeed. It is there in black and white and highlighted within the strategy. We intend to restore the funding that was reduced previously to help unlock their potential, educate girls, support their empowerment and protect them against violence. A major part of that focus will be volunteering, which has always played an incredibly powerful role in this area. I am afraid I cannot give her more details at this point; I wish that I could.

Baroness Warwick of Undercliffe (Lab): My Lords, to bring the Minister back to the ICS programme, it was one of the most successful things that the VSO did, in partnership with and funded by the British Government. The point is that it took 20,000 Brit volunteers along with 20,000 international volunteers to work together in a wonderful programme. It was paused during the pandemic and there is no indication that it will be revived again. That is the point. Can the Minister say something about that specific programme?

Lord Goldsmith of Richmond Park (Con): I will have to refer the noble Baroness to a previous answer. I cannot comment on funding commitments for specific programmes. However, the value of the scheme she has described, which has been mentioned by other noble Lords, is unquestioned. The success story there is plain for all to see. I very much hope that we can continue providing support for it, but I cannot give her any black and white answers; that is just not within my remit.

Baroness Hodgson of Abinger (Con): My Lords, I think we all recognise the benefits to young people of going abroad in a volunteering capacity, the knowledge they gain of other countries and the richness they bring back. The same is true of young people from other countries coming here. Will Her Majesty's Government consider reinstating the au pair scheme, set up before we joined the EU by the Council of Europe? It has been brought down by Brexit and many will not be able to have the benefits of going abroad for a year to learn about other countries.

Lord Goldsmith of Richmond Park (Con): My Lords, I have to be honest that I do not know a huge amount about this scheme; it has been raised in previous debates on this issue, but only at a very high level, so I cannot give my noble friend an authoritative answer. I will take away her suggestion and ensure that whichever of my ministerial colleagues will be deciding on that programme is made aware of my noble friend's very strong views on the issue.

Lord Collins of Highbury (Lab): My Lords, can we get back to the original question, which was about a successful, five-year programme, Volunteering for Development? Let us not forget that this is about volunteering in countries where we deliver expertise and train trainers; it is about sustainable development, with £70 million over five years. The Minister announces a programme called ACTIVE, which is for £27 million. Are we going to see the programme shrink to that level? Are we going to see a real commitment from this Government instead of just words and spin? Let us hear from the Minister that he will return this programme to a much more sustainable programme for the future.

Lord Goldsmith of Richmond Park (Con): My Lords, I am not going to disagree with the noble Lord on the value of volunteering and the promotion of volunteering in recent years—I do not think anyone would argue with that. I would not dismiss £27 million as pure spin, but nor is that the end of the story. As I said before, I cannot comment on future spending, but spending

[Lord Goldsmith of Richmond Park]
answers will be published very soon. The allocations will be available for the House to scrutinise, and either praise or criticise depending on the answers. I cannot go into the specifics now, but I can reassure the noble Lord and everyone else in this place that the value of volunteering is recognised through every strand of activity in the FCDO, and that will be reflected in our funding decisions.

The Lord Bishop of St Albans: My Lords, over the next few days more than a 1,000 overseas Anglican bishops will be arriving here for the Lambeth Conference. There are hundreds of links of volunteers going to many of the areas of the world which we are deeply concerned about, including parts of the Horn of Africa where there is famine and locusts have had a devastating impact. People are coming from the Democratic Republic of the Congo, where Ebola is such a problem; these are people who are working on the ground. We already have many volunteer programmes of medics and others going in and out. Does the FCDO intend to meet some of those people who are coming here to see how we can strengthen other forms of volunteering, as well as some of the government schemes we have had in the past?

Lord Goldsmith of Richmond Park (Con): The right reverend Prelate makes an extremely good point. It is hard to know which Ministers will be responding to the invitation when it comes to the Foreign Office, but I assure him that, in the unlikely circumstance that I am the Minister opening the envelope, I will certainly take him up on his invitation. I look forward to being given good counsel by people who, as he rightly says, do extraordinary work in some of the most difficult parts of the world.

Lord Naseby (Con): Is my noble friend aware that there are 330,000 young people in the Duke of Edinburgh's Award scheme and rising? Is he also aware that there are well over 130,000 boys and girls in the Sea Cadets and Combined Cadet Force? Does he not understand that among young people there are thousands who want to go out on VSO work? The noble Lord from the Labour Front Bench is right: we need to move forward; we have been waiting too long.

Lord Goldsmith of Richmond Park (Con): My noble friend makes a very good point and I am not going to argue with him. The value of the Duke of Edinburgh's Award and the Sea Cadets and Combined Cadet Force is absolutely unquestioned—they are magnificent organisations. As I said before, I do not agree with the noble Lord on the Front Bench opposite. This is an area that we absolutely need to continue to provide support for, and I understand the call from this House for greater clarity. I hope we will be able to provide that clarity soon.

General Practitioners: Shortage

Question

3.09 pm

Asked by ***Baroness McIntosh of Pickering***

To ask Her Majesty's Government what assessment they have made of the reported shortage of GPs in England; and what steps they will take in response.

Baroness McIntosh of Pickering (Con): I beg leave to ask the Question standing in my name on the Order Paper and declare my interest with the Dispensing Doctors' Association.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): The Government recognise that growing the GP workforce is challenging, particularly in light of pressures from the pandemic. There are over 1,400 more full-time equivalent doctors in general practice in March this year compared with March 2019, showing that there is some movement in the right direction. However, we need to go further, and we are working with NHS England and NHS Improvement, Health Education England and the profession to boost recruitment, address the reasons why doctors leave and encourage them to stay or return to practice.

Baroness McIntosh of Pickering (Con): I am grateful for that Answer, but my noble friend will be aware that by 2030, we will be facing an acute shortage of GPs as more doctors leave the profession than join. There are 9 million people living in remote rural, coastal and island communities, which is more than live in London. Will my noble friend ensure that all health policy is rural-proofed, and that those living in rural areas have equal access to healthcare to those living in urban areas?

Lord Kamall (Con): My noble friend makes a very important point, and she referred continually throughout the passage of the Health and Care Act to practices in rural areas. We have looked at the challenges and have asked GPs about this in surveys, and we know that there are problems about the reduction of working hours, administrative burdens, some stress and burnout, and some issues about equitable distribution. One thing we do have is the Targeted Enhanced Recruitment Scheme launched in 2016, which has attracted hundreds of doctors to train in hard-to-recruit areas by providing a one-off financial incentive.

Lord Patel (CB): My Lords, in 2017, a House of Lords report recommended that the current small business model of primary care is not fit for purpose. The same has been said by the Royal College of General Practitioners, which produced a report; the British Medical Association; two think tanks, the Nuffield Trust and the King's Fund; and, more recently, Policy Exchange, which produced a report on the model being fit for the future. Is it not time that the Government had plans to look at future models of delivering primary care? If they do not have such an intention, does the Minister agree that the House of Lords should set up a Select Committee to follow on from the excellent report produced on the NHS in 2017?

Lord Kamall (Con): I thank the noble Lord for that question, but I should explain to him that I have been warned for exceeding my powers, as it were, in the past. I think setting up a Select Committee is a bit beyond my powers. The noble Lord and I, and many noble Lords across the House, including previous

Health Ministers of all parties, have had this conversation, and we know that the old-fashioned model of a five to 10-minute appointment with your GP, only to be referred elsewhere and into secondary care, is broken in many ways. We need a much more modern model. We have seen primary care take on some of the functions of secondary care, but we have also seen, at the GP level, that the GP does not have to do everything, and that there are other workers such as nurses, physiotherapists and pharmacists who can do more of what the GP has done in the past.

Lord Winston (Lab): My Lords, the figures show that more than half of GPs are considering retirement or are retiring before the age of 60. As the noble Lord has pointed out, there are lots of reasons for this, but he has not told us what he is doing about them. What is he doing constructively to change the attitudes and experience of GPs, which lead to this disillusionment among men who are at the highest point of their career, when they are the most useful to patients in primary care?

Lord Kamall (Con): I assure the noble Lord that the Government are doing lots of things. Not only are we listening but we are looking at potential solutions and discussing them with the relevant bodies. For example, one of the pressures mentioned was the impact of the number of phone calls. There has been investment in handling them and getting them redirected appropriately, and GP practices have been offered money for that. The other issue is pensions: some GPs are worried about taking a hit on their pension if they come back to service. There are discussions about whether they are really worse off and how we can retain staff. Also, having other staff at the GP level who can take on some of those functions that GPs do not necessarily need to do could ease their workload. The administrative burden has added to this, but the digitisation of services should solve a lot of those problems.

The Lord Speaker (Lord McFall of Alcluith): I call the noble Baroness, Lady Brinton, to make a virtual contribution.

Baroness Brinton (LD) [V]: My Lords, the Royal College of GPs reports that since 2019, GP clinical administration tasks have risen by a shocking 28%. GPs say that it would make a significant difference if hospital consultants could refer patients directly to other consultants, rather than patients having to come back to GPs and then be redirected. The back-office functions for repeat prescriptions take an ever-increasing amount of their time, and GPs are not in control of either of these processes. As a matter of urgency, will the Minister investigate how to reduce some of this bureaucracy so that GPs have more time to see their patients?

Lord Kamall (Con): As part of the joint NHS England and NHS Improvement and DHSC bureaucracy review—there is such a thing—we have been working across government to reduce unnecessary bureaucratic burdens. There have been a number of key work streams, including a new appraisal process and digitisation of the signing of some notes, along with work to reform who can provide medical evidence and certificates and who can provide notes—nurses, occupational therapists, pharmacists and others. We are continuing to look through the process to engage with GPs to see how we can remove more such administrative burdens.

Lord Patel of Bradford (Non-Afl): My Lords, looking at wider health workforce issues, I understand that we need another 2,000 radiologists in the next five years and that it is highly unlikely that we will be able to produce them. That is the pessimistic note. On an optimistic note, I heard recently that Apollo, the large healthcare provider in India, in partnership with the royal college and the GMC, has been training up 150 high-quality radiologists every year, some of whom are coming to this country. Does the Minister approve of such schemes, and is the department doing more work in places such as India where we can recruit high-quality medical staff?

Lord Kamall (Con): I thank the noble Lord for his question, but also pay tribute to his commitment to tackling racism in our society.

We know that there are countries that train more people than they have places for in their country. They do that, first, to help those people get a better life elsewhere, but also because remittances are much better than foreign aid for many of those countries. I frequently mention the fact that it was immigrants from the Commonwealth who saved public services in this country after the war. We should remember that and continue to encourage people from the Commonwealth to come to this country. Sadly, for some reason, noble Lords quite often do not want them and make up all sorts of excuses for trying to block non-white people from outside Europe.

Lord Young of Norwood Green (Lab): My Lords, one of the disincentives for both men and women GPs is the quality of accommodation. They are in overcrowded buildings. There is a good example from a care commissioning group in my area which spent £1 million planning a new centralised health centre, which would have provided top-of-the-range facilities and would have encouraged general practitioners to remain in practice. Will the Minister look at the quality of accommodation? What plans are there to introduce new buildings? That is a really important factor in dealing with the shortage of GPs.

Lord Kamall (Con): The noble Lord makes the very important point that GP practices are evolving. Some are moving premises; some are merging in larger premises; some are moving into primary care centres, where they are able to offer not just traditional GP services but some of the services that secondary care currently offers. I am not entirely sure of the specific point that the noble Lord makes. He would be welcome to have a conversation so that I can follow it up with my department.

Lord Moylan (Con): My Lords, does my noble friend agree that an increasing number of GPs prefer to work part-time because they face a marginal tax rate of 62% on earnings over £100,000? Will he consider discussions with his friends at Her Majesty's Treasury to address those anomalies in the tax system?

Lord Kamall (Con): There are a number of reasons why some GPs and other health professionals prefer to work part-time as opposed to full-time. Many people, especially given the stresses of the pandemic, want a better work/life balance. Some people have suggested in the past that we should focus on full-time equivalents. We should make sure that current staff who want to go from full-time to part-time can do so within the system, so that we can retain them, while tackling all the barriers to retention as well as recruiting more GPs.

Baroness Merron (Lab): My Lords, the appointments system is not working well for GPs or patients. Healthwatch England reports that complaints about GP services are rising, the main problems being difficulties getting an appointment, exorbitant waits on the phone, about which we all know, and an end to online facilities to book slots. What assessment has been made of the detrimental impact on people struggling to access GP services, particularly those who are more vulnerable, and what is the plan to put this right?

Lord Kamall (Con): The noble Baroness is absolutely right. We know that, for many people, their first entry into the system—their portal, if you like—is trying to get an appointment with their GP. As the noble Lord, Lord Patel, mentioned earlier, we have to look at how we can modernise this service. In the short term, we have made money available to help improve triage for people who phone up for services; this includes how to manage incoming and outgoing calls. In future, we are looking at more digitisation and extending the functionality of the NHS app so that people can book appointments for all sorts of services; if they are waiting for an appointment or secondary care, they will also be able to see how long they will have to wait and where they are in the queue.

Energy (Oil and Gas) Profits Levy Bill

First Reading

3.20 pm

The Bill was brought from the Commons, endorsed as a money Bill, and read a first time.

Schools Bill [HL]

Report (1st Day)

Relevant document: 2nd Report from the Delegated Powers Committee

3.21 pm

Motion

Moved by ***Baroness Barran***

That the Report be now received.

Baroness Bennett of Manor Castle (GP): My Lords, I propose to your Lordships' House that Report not be received and that consideration of the Bill not proceed at this time. This reflects the fact that, of the many people I have spoken to, few believe that the Government are truly ready to proceed with the Bill.

I posit three reasons for this. First, we have been through three Education Secretaries in three days. We now have a caretaker Prime Minister and Government. Perhaps the less said about the behaviour of the new Education Minister, the better; the National Education Union has said all that needs to be said on that matter. In our unwritten, dysfunctional constitution, accreted over centuries of historical accident, "caretaker Education Secretary" may not have a technical meaning, but it has a practical one. With a new Prime Minister due in a couple of months, there is a very good chance that we will have a fourth Education Secretary.

The second reason is that, were this reform to be carefully thought through, long planned and developed over a long period of consultation and reflection with clear goals in mind, a temporary—if long-running—perturbation in the Government might not be a significant impediment to progress. However, it is nothing like that. We have the Government agreeing to pull one major element of the Bill—the first part, which was presumably their primary reason for bringing the Bill forward—and promising both to introduce an alternative approach in the other place and that they will allow future extended debate in your Lordships' House. This promise will have to be followed by a new Government, most likely with a new team of people; I intend no insult to anyone still in post.

The third reason why we should not proceed today is that the remaining parts of the Bill are a controversial hotchpotch that has produced in my mailbag—and those of many other noble Lords, I have no doubt—cries of fear and horror. As usual, your Lordships' House is trying modestly to improve the Bill, with a series of votes planned for this afternoon. However, a bad law is surely worse than no law at all, particularly in the current circumstances. Our schools would be better off without the extra confusion and disruption created by a half-cooked Bill proceeding to the other place, allowing them and the department to concentrate on the triple epidemic that they face: the continuing Covid epidemic; the crisis of mental ill-health and stress affecting pupils, teachers and other staff; and the cost of living crisis that is hitting school and family budgets hard.

If we proceed now, we will be trying to put a few patches on a sow's ear. That is not progress and not the right direction for your Lordships' House. Instead, let us leave our education system and department to settle down and seek stability and certainty where they can find them, rather than contribute to their problems.

Lord Cormack (Con): My Lords, I had no intention of following the noble Baroness until she began to speak. I do not always agree with her, but she has spoken a lot of very good sense this afternoon.

As I sat here during Question Time, I felt increasingly that we are in a vacuum. We have a discredited Prime Minister who is still occupying No. 10 Downing Street. It will be an absolute scandal if he is still there after the House rises for the Summer Recess. You cannot have a Government in suspended animation. You must have a Government in which people can have a degree of trust. My solution, which I made plain in a letter to the *Times* last week, is that we bring our election of the leader of the Conservative Party to a conclusion in the House of Commons next week.

It is utterly ludicrous that we should spend four, five or six weeks traipsing around the country appealing to an infinitesimal proportion of people—about 200,000 in England, Wales and Scotland—who then possibly choose the second person, so you begin with a Prime Minister who does not enjoy the confidence of the majority of the Members of the House of Commons. I beg all my noble friends, if they believe that there is some substance to this argument, which has also been advanced by my noble friend Lord Young of Cookham, to speak out, and speak inwards as well. To have a Government in office but not in power is, to quote a famous speech by my noble friend Lord Lamont many years ago, doing the nation a great disservice. We all need a Government who have the opportunity to develop new ideas, and to present policies to the country, to your Lordships' House, and to the other place.

The noble Baroness, Lady Bennett of Manor Castle, was absolutely right that this Bill is, in effect, already discredited. The brilliant forensic activities of my noble friend Lord Baker of Dorking have shown just how many holes there are in it. We know that a great number of clauses will be withdrawn. Therefore, we have that worst of all combinations, a ragbag and a Christmas tree, to quote the noble and learned Lord, Lord Judge. Is that really any way to proceed? It is not. We should drop the Bill, we should move quickly towards the instatement of a Prime Minister who enjoys the confidence of a majority in the House of Commons, and we should begin to rebuild trust in our Government, a trust that has been squandered and besmirched by a man who has defiled everything that he has touched. That is the true background against which we debate this afternoon.

The Opposition should have no part of this. They should say, "We are not going to debate this Bill. It's got to be sorted out." We need to put the Government of this country on an honourable and honest footing, as soon as we possibly can.

3.30 pm

Lord Balfe (Con): My Lords, I commend my noble friend Lord Cormack for his courage. I probably would not have got up first but I now get up to support him. We really are in a terrible mess. We have a Prime Minister who has the confidence of virtually no one. I have been trying now for three or four days to get either a Private Notice Question or a Question to the Government because I understand that the Prime Minister, before he leaves office, intends to create a number of Peers. That is totally wrong. The Prime Minister is now a caretaker. When he leaves office, he will have a Resignation Honours List and that is quite appropriate.

It has proved impossible to get anything on to the Order Paper of this House. It really shows us up as being a rather ineffectual House if we cannot even get a Question to ask the Government to make a Statement as to whether they consider it appropriate that a caretaker Prime Minister should now be about to appoint another group of Conservative Peers. This is the time to make this speech, not when there are names on the table and it appears that we are attacking individuals. I have no knowledge whatever of who may be on that list but I believe that it would be completely improper for an acting Prime Minister to issue a list of Conservative Peers when he can issue his own Resignation Honours List.

I have a solution; the noble Lord, Lord Cormack, has one. We have a Deputy Prime Minister who is not a candidate, as I understand it, and my answer is quite simple. The Deputy Prime Minister should take over and we should run the Government how it is run during a general election: in other words, no new policies, a caretaker, and we look after problems as they emerge but do not seek to shape legislation or anything else.

I fully support my noble friend Lord Cormack and ask the Opposition to consider their position because frankly, if they went on strike I would join their picket line—I have been on lots of picket lines—because now, and in this way, is not the time for us to be passing legislation. We are turning ourselves into something that we will soon come to regret.

Lord Baker of Dorking (Con): My Lords, I support what my noble friend Lord Cormack said about this Bill. We are in the most extraordinary situation where, in the course of the day, we are going to gut the Bill by removing the first 18 clauses and removing its real intention. The rest are really issues that can be brought up in another Bill.

We are going to be asked to pass this Bill to Third Reading but this House has never been asked in the past to pass a Bill the guts of which have taken out. We have no idea what is going to be placed into the Bill later in the House of Commons. This has simply not happened in our history and it is not the right way to behave.

I believe therefore that we should consider not giving this Bill a Third Reading when it comes to it, because it is a gutless Bill. I am not critical at all of the Minister; in fact, I have the highest praise for her because she did not resign and is now the best Minister in the whole department. She knows about it. The other cronies appointed by the Prime Minister have no idea about what happens in education; he just wanted to give them extra pay for five months and the possibility of a consolation retirement. This is how cronies work and they will have no influence on this Bill whatever. The new Government will have to decide how this Bill should continue, or whether it should continue and in what form.

The issues that they will have to decide are very serious. We are told that the regulation of schools is the bit that is going to come back to us, and that concerns us very seriously indeed. If the Government are going to change the rules on regulating schools, there must be a consultation period; it cannot just be foisted on us at the end of a parliamentary Session.

I invite the major parties of this House, the Liberals and the Labour Party, to consider whether it would be sensible to give this Bill a Third Reading. I do not think it would be. It should be left to the new Government to decide, and it is highly unlikely that the Chancellor of the Exchequer will return to being the Education Secretary; we will have a new Education Secretary on 5 September. That person, with a new team of Ministers—I hope he gets rid of them all, apart from my noble friend—will have to consider very carefully

[LORD BAKER OF DORKING]
the steps forward in the regulation of schools and MATs. I hope that the idea of not giving this a Third Reading now takes aflame in this House and that we agree not to do it.

Lord Wei (Con): My Lords, I support both propositions of delay, particularly not giving the Bill a Third Reading. Not only are there legislative problems with the Bill now not being a Bill in any substance, as originally intended; many measures in it give a future Education Minister the power to provide guidance and put in place statutory instruments—but we do not even know who that Education Minister is going to be.

To be implemented, the Bill will be passed from this House to the other side over next year and the year after, but we have no idea who will be leading on this, how long they will have been in the job or how good their guidance will be. Will it simply be left to the civil servants—for whom I have great respect, but obviously government must lead? We need people in post who know what they are doing and who, ideally, know about education. Over the passage of this Bill, that, sadly, has not always been the case, even with the present team, as much as I respect them. How can we have any confidence that it will be the case with the very fresh team coming in in the autumn?

Lord Knight of Weymouth (Lab): My Lords, I rise briefly to support the noble Lord, Lord Baker, in particular. The Minister listened carefully and that is why she agreed to remove the first 18 clauses of the Bill. That puts the House in a difficult position in allowing the Bill to go to the other place in its gutted, skeletal form. The suggestion of the noble Lord, Lord Baker, not to give the Bill a Third Reading gives us some time before next week, when we will be asked that question, to consider whether he is right.

I suggest that we proceed to Report now and have the debates for which noble Lords have been preparing. But we should take some time, within the usual channels and among ourselves, to decide whether the noble Lord, Lord Baker, is right and whether the Bill should have a Third Reading.

Lord Addington (LD): My Lords, I will briefly speak to this. I agree with the points made by the noble Lord, Lord Knight. The Government have moved on this Bill; they have listened. They have given more than I have ever seen a Government give. It is possibly true that they had to. It is the worst Bill I have ever seen, but the Minister was described by one of my colleagues as the rock around which a raging department breaks. My noble friend Lord Shipley came up with that one, not me, so he gets the credit. I hope when the Minister replies that she gives some indication or guarantees of what we are going to get if we carry on with the planning. Things have moved on.

There is a nasty little internal fight going on behind the Minister. As much fun as it would be to wade in, it ain't my fight. I hope the Minister can tell us what is going on. I have never seen another Bill that has got itself into this big a mess. I am not the longest-serving person here, but I am the longest-serving on my Benches. If nothing happens and the Bill is unacceptable at Third Reading, we can do something then, but let us hear what the Government have to say now. There has been a great deal of work done and a great many meetings. A lot of work is going on here. Grand gestures are great, but let us not get in the way of the work of the House.

Lord Kennedy of Southwark (Lab Co-op): My Lords, as my noble friend Lord Knight said, we should proceed with Report. I am happy to have discussions with the Government Chief Whip, through the usual channels, between the end of Report and Third Reading, and we will see how we can move forward from there.

I am not sure whether this is the worst Bill; from our point of view, there is quite a long list. Some of the comments from the Government Benches were interesting. Some of the views expressed have been our views for many months or even years, but they seem to have all turned up in the last week. I am not going to get involved in some spat between people on the Government Benches, but I am happy to have that discussion with the Government Chief Whip between the end of Report and Third Reading on how we should proceed.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I shall try to address very briefly the points raised by the noble Baroness and other Members of the House, but I do not want to pre-empt the wider debate that the House is about to have on the Bill.

As I said in my letter to your Lordships, the Government will accept the amendments to remove the first 18 clauses of the Bill and will engage extensively with your Lordships and the sector about what replaces them. I feel very concerned at the tone of some of your Lordships' remarks about the rest of the Bill, which brings in very important measures in relation to children not in school and illegal schools. I remind your Lordships that those parts of the Bill have been extensively consulted on. I do not think it is appropriate to describe them in the terms that they were referred to in today.

My noble friend the Chief Whip has had constructive discussions with the usual channels—I thank the Opposition Chief Whip for his remarks—about how such replacement clauses will receive proper scrutiny in the House and has agreed to relax the rules of debate on ping-pong for these clauses and to allow sufficient time for the first round of ping-pong. I am sure my noble friend the Chief Whip would be happy to speak to any of your Lordships about that in more detail. I thank the noble Lord, Lord Addington, for the tone of his remarks.

Baroness Bennett of Manor Castle (GP): My Lords, I thank all noble Lords who have contributed to this unplanned and, I think, quite fruitful debate. I particularly thank Members opposite, including the noble Lords, Lord Cormack and Lord Wei, who expressed support for my direction. I note the suggestion from the noble Lord, Lord Baker of Dorking, who brings vastly more experience to your Lordships' House than I do on the way forward here. I also take on board the comments

from the noble Lords, Lord Knight, Lord Kennedy and Lord Addington, in particular, about the amount of work that has gone into Report. I fully acknowledge that. I shall not push my suggestion to a vote at this point. I think the suggestion from the noble Lord, Lord Baker of Dorking, is something we can talk about and consider as a way forward on whether we proceed with Third Reading. For the moment, I am not quite sure what the form is, but I withdraw my proposal.

Report received.

Clause 1: Academy standards

Amendment 1

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

1: Clause 1, page 2, line 18, at end insert—

"(2A) In setting standards in relation to Academies in respect of subsection (2)(k), the Secretary of State must require that each Academy Trust, each Multi Academy Trust, and each Academy within a Multi Academy Trust, prepares and revises a strategic policy on parental and community engagement at least once every three years."

Member's explanatory statement

This is to make mandatory that every Academy must have a policy on parental and community engagement.

Lord Hunt of Kings Heath (Lab): My Lords, I wonder whether the Minister would like to speak.

Baroness Barran (Con): I thank the noble Lord. With the leave of the House, I hope it will be helpful to your Lordships if I briefly explain the context for the Government's position, as set out in my letter of 30 June. I have taken on board the concerns raised by your Lordships and the Delegated Powers and Regulatory Reform and Constitution Committees about Clauses 1 to 18, which is why the Government will be supporting amendments at this stage to remove them from the Bill. We will use the regulation and commissioning review to work closely with the sector to develop revised clauses to address the concerns raised and will bring them back in the other place. I confirm that we will not be bringing back the delegated power in Clause 3.

On the clauses relating to the academy standards, we will develop an approach that is more tightly defined so that we can provide Parliament and the sector with clarity on the scope of our plans to set standards for academy trusts. The Government believe that our approach to the intervention provisions is broadly right, but we intend to address the issues of proportionality and the right to representation raised in this House. Our policy intention behind these clauses is to move to a statutory framework fit for a fully trust-led system, which clearly defines the scope of the academy standards and enables a ladder of proportionate intervention at trust level.

I know your Lordships will rightly expect the opportunity to scrutinise the revised clauses thoroughly. First, a full day will be allowed for the first round of ping-pong when the Bill returns from the Commons. Secondly, the *Companion to the Standing Orders* has a process in place to allow the House to use Committee-stage rules of debate during ping-pong on the replacements to Clauses 1 to 18, allowing greater freedom of debate and more conversation about the amendments. Following that, the House will revert to normal ping-pong rules for the rest of the Bill.

3.45 pm

Lord Knight of Weymouth (Lab): My Lords, would the Minister also consider coming to this House to make a Statement when the proposals are published in the other place, so that we have the opportunity at that point to feed into the proposals that she is making as they go to the other place?

Baroness Barran (Con): I am more than happy to take that suggestion back to the department and consider it.

Lord Grocott (Lab): My Lords, I should like more clarity from the Minister about the procedure that will be adopted as and when the Bill comes back from the Commons. That is according to the current timetable and assumes that the Bill gets a Third Reading, although that may be a false assumption. What we will then have back from the Commons is a substantially different Bill, with heaven knows how many clauses and amendments coming back, which, as I understand it, is to be catered for procedurally just by having a rather extended period for ping-pong. That is really no substitute for what should happen to a Bill—in this case, of course, rather a large section of a Bill—which is that it would have a Committee stage where these ideas could be explored and then a Report stage where the Government could respond, in many cases, to the ideas raised in Committee.

I would like clarity on this matter because we are almost in uncharted waters at the moment. I do not think that an offer to the House of a day for consideration and ping-pong should be a substitute for the proper procedure of a Bill via Committee and Report.

Baroness Barran (Con): When I come to speak at the end of this group, I will set out a bit more about our plans for engagement over the summer, but the proposal that I just ran through has been agreed with the usual channels.

Lord Baker of Dorking (Con): Following what the noble Lord, Lord Grocott, said, as I understand it, the Minister has said that if the Bill goes forward under the new Government, it will come back to us for one day of ping-pong. Is it just one day for ping-pong? It might have 10, 20 or 30 clauses, and that cannot be done in one day. Will we have longer than that to have a look at the clauses? Clearly the clauses are going to be very important.

She has set up a committee composed of basically the managers of multi-academy trusts, which has only one school head on it, which apparently is going to try to establish the relationship that should exist between the Department for Education and multi-academy

[LORD BAKER OF DORKING]
trusts. I do not object to that because they are very important bodies, but there are lots of other issues affecting multi-academy trusts. For example, how is the voice of the individual school in a multi-academy trust to be heard? What is the role of the independent governing body of individual schools in a multi-academy trust? How will they be listened to? What rights do they have and what position can they hold against the authority of a multi-academy trust? Will these issues be covered by her committee, which will now be working in the remnants of this Government?

Secondly, the Minister has issued a document about regulating schools. Do I take it that some of the amendments likely to be tabled will cover that as well? If the Government are going to change the rules and regulations between schools and the department, that requires a long period of consultation in which schools, local authorities and educational experts must be listened to. Are we going to get that period of consultation on any of these fundamental changes? They must not be smuggled into this Bill on the understanding that "These are just a few clauses that we want".

Baroness Barran (Con): I will respond briefly to my noble friend. On his first point, it will be agreed through the usual channels that sufficient time is given to debate the new clauses.

Lord Addington (LD): When the Minister said "one day", did she mean that, when we are dealing with the replacement clauses, we will have this process for all those replacement clauses? It may have been a slip of the tongue, or a hopeful Government Whip's answer about how long we will take, but if it is for all those clauses then that slightly changes the tone of what is being said. Will the replacements we are getting be under these new arrangements?

Baroness Barran (Con): My understanding is that we will have one day for the new clauses, which will be handled under what has been described to me as Committee-stage rules, and then the rest of the Bill will follow the normal ping-pong timings and time allocation.

Lord Hunt of Kings Heath (Lab): My Lords—

Baroness Barran (Con): If I may, I would like to respond to my noble friend's other points. It is extremely important, given that our debate is a matter of public record in *Hansard*, that assertions that are made in the House are accurate. With the greatest respect to my noble friend, I am very happy to share with him—and it is on GOV. UK—the list of people who are on the expert panel. I am very happy to talk about—and will be in a few moments, I hope—the extremely extensive engagement that we plan for over the summer. I do not think it is helpful to assert things that are not accurate about how the Government are approaching this Bill in continuing to get it to a good place. I will take any time with any Member of the House to make sure that there is no confusion about how we are approaching this.

On the regulation of schools, these standards are about the regulation of trusts; they are trust standards, not school standards.

Lord Judge (CB): I want us to pocket the clauses that the Government are going to give way on. Let us get rid of clauses that are unacceptable.

We are all rushing around trying to find a solution. I draw the Minister's attention to paragraph 8.132 in the *Companion*, which I would like everyone sitting here today to consider. The noble Lord, Lord Grocott, is right: the present arrangement means that there would be no Report stage on the new clauses, and there would be no Committee stage on the new clauses. There will be a Committee process, which is quite different, and which will culminate in the ping-pong arrangements. The *Companion* states:

> "Other bills may, on motion (which is debatable and of which notice is required) moved at any time between committee and third reading, be recommitted to a Committee of the whole House or Grand Committee in their entirety, or in respect of certain clauses or schedules. This course is adopted when it is desirable to give further detailed consideration to the bill or certain parts of it without the constraints on speaking which apply on report and third reading; for instance: when substantial amendments are tabled too late in the committee stage to enable them to be properly considered; where there is extensive redrafting; or where amendments are tabled at a later stage on subjects which have not been considered in committee."

That seems to me to cover all the new clauses that may be put into the Bill as and when it gets to the Commons—if it gets to the Commons. We must not get to Third Reading; we must make any application, or move any Motion, before Third Reading. I would love to be an expert in procedure but I am not, but I think that may be an answer to the problem that is obviously vexing a number of Members of the House. There could be a recommitment of the amendments and we would then go to Committee stage.

Lord Cormack (Con): I am grateful to the noble and learned Lord. In view of the extraordinary and frankly unprecedented mess we are in with this Bill, would it not be sensible to adjourn the House so that there can be conversations between various key people? It might indeed be far better, neater and tidier—and, in the long run, far speedier—if the Bill were abandoned and a new one brought in when we have a new, effective Government in power.

Lord Grocott (Lab): My Lords, can we just be clear about where we are? We have not yet agreed to consider the Report stage of the Bill.

Baroness Penn (Con): My Lords, the House did just agree to consider its Report stage. The noble and learned Lord, Lord Judge, made the point, as the Opposition Chief Whip did, that continuing discussions can happen between the usual channels ahead of Third Reading. It is important that the House is clear that we have agreed to consider Report, and that is what we are doing on the first group of amendments.

Lord Grocott (Lab): If that is the case, I must have dozed off at some stage. Does it not say "Report be now received" on the Annunciator? I am sure the noble

Baroness is right, but the procedure suggested by the noble and learned Lord, Lord Judge, would have been perfect. During the passage of the Bill I considered several times recommitting sections of it to consider them, and to then go back to Report in the normal way. If we are now proceeding on Report, that opportunity has passed. We will be back to the situation where, if the Bill gets a Third Reading, we will need to do something much better for the way in which we consider a massive number of Commons amendments—unless of course we follow the suggestion of the noble Lord, Lord Cormack, which is to adjourn now and see if there is another way of dealing with it. I am afraid that the suggestion of the noble and learned Lord, Lord Judge, will not function now.

Lord Hunt of Kings Heath (Lab): My Lords, as I think we are debating my Amendment 1, it might be helpful if we carried on, because in order to withdraw the 18 clauses we need this debate to start and, I hope, come to a speedy conclusion. I want to say three things.

First, I thank the Minister for listening to the House and agreeing to support the withdrawal of the first 18 clauses of the Bill, which are the bulk of Part 1. We appreciate that she has listened. Secondly, it is clear that the usual channels will need to have further discussions between now and Third Reading, and that part of those discussions will be about whether the House lets the Bill have a Third Reading and about the procedure to be followed if the Bill comes back to us. By the way, I think it is going to be many months before it comes back, given that the noble Baroness's review has to take place. I assume there has to be consultation and that instructions then have to be given to parliamentary counsel, and a whole new set of clauses has to be introduced in the Commons.

Thirdly, having listened to the noble and learned Lord, Lord Judge, and my friend the noble Lord, Lord Cormack, my experience is that, whatever the *Companion* says, the House can do what it wants to if it has been agreed as a sensible way to deal with a situation. At this stage, we should be content to leave it to the usual channels. If they have heard the voices of the House, at this point the Bill is unlikely to go through on Third Reading, unless there are sufficient guarantees that when the new amendments come back there is not just "a day". Essentially, we should treat it as a Committee, go into Report and then it would go back. That is just my opinion, but it seems that we should now proceed.

I will obviously not press my Amendment 1 and will not speak to Amendments 2 and 3, to use the terminology as I understand it. But we should thank the Delegated Powers Committee and the scrutiny committee, along with the noble and learned Lord, Lord Judge, the noble Lord, Lord Baker, the noble Baroness, Lady Meacher, and my noble friend Lady Chapman. What they have done in the Bill is to identify a real and growing problem of the Executive drafting legislation in such a way that the role of Parliament has been undermined. It is very important that this House has put down a marker to say that we will not accept Bills like this in the future. In many ways, that is even more important than the first 18 clauses.

4 pm

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, the amendment proposed is to insert the words on the Marshalled List at Clause 1 on page 2 at the end of line 18. If I am wrong, I apologise.

Lord Judge (CB): My Lords, I will speak in a moment to Amendments 4, 7 and 9, but can I go back to the discussion that happened a few moments ago and the concern of the noble Lord, Lord Grocott? I will again read paragraph 8.132 of the *Companion*: "Other bills",

so one that has not been referred to a Select Committee or Joint Committee,

"may, on motion (which is debatable and of which notice is required)"—

that means assuming the usual channels cannot resolve the problem in a way that is satisfactory to the House—be

"moved at any time between committee and third reading".

We are still on Report and will be at the end of today, so we will not have reached Third Reading. Although I do not claim to be an expert, I think it is open to the House to consider the remedy available at paragraph 8.132 of the *Companion*. That is what I would like the House to do and what I expect the usual channels will do. I should assert that, as Convenor of the Cross Benches, I am not a usual channel for these purposes because I do not have a party.

Now to the Bill. Of course, we are grateful to the Minister. I feel very concerned that somehow people may think the anxiety of the House is a reflection on her. I can do nothing except on behalf of myself thank her for the way in which she has listened. I have an awful suspicion—and she cannot confirm or deny this—that, if she had her way when she was in the department, we would not have ended up with the Bill in this absurd situation.

The provision in Clauses 1, 3 and 4 is extraordinary. I will go through what I said again when we were speaking about this last. The two words "Academy standards" are a clear misrepresentation of what Clause 1 is about. It is simply a skeleton provision from which the Secretary of State can pick whichever particular provisions he wishes to invent for himself; he is not bound by any of them, and he or she can write them for himself or herself.

Clause 3 is Henry VIII. The House has listened to me on Henry VIII a number of times so I will not go on about it, but I hope noble Lords have all noticed that the Bill has a particular quality, in that it has two Henry VIII clauses: Clause 3 and Clause 66. Removing Clause 3 simply removes something that is completely unnecessary. Clause 66 will no doubt continue because the departmental computer will just produce one at some stage in the Bill. I have never before come across two Henry VIII clauses in the same legislation—so we have Henry XVI, and the Bill has a particular record apart from all its other flaws.

It also has a provision in Clause 4 which is a shameful, pernicious new way for central government to obtain power: the issuing of guidance. When the Government and department of the day issue guidance, those to whom it is sent answer to it. In the Bill, there

[LORD JUDGE]
is a provision that enables the Secretary of State to issue a compliance direction anyway. So we have a new form of acquisition of central power, ultimately in No. 10 Downing Street, which we have shamed the country with by passing and enacting the Elections Act. It is exactly the same provision.

Any one of those three would be great from the point of view of central government, but we have all three together. It is a rather poisonous cocktail from all our points of view. It is like supping Irn-Bru, only on stilts. It is the most amazing combination of powers. That is why these clauses should fail.

I am concerned, as has been expressed by others, but not about the way in which the Conservative Party is going to sort itself out. I am concerned about that for the sake of the nation, but not for the sake of the Bill, because, as has been arranged so far, when the clauses go back in whatever form they are amended to the Commons—there will be new clauses—there will be no Second Reading or Committee here. We must therefore look at the provision of paragraph 8.132.

Something else worries me even more. The Bill started here, and this Minister was sitting here and able to hear observations from all sides of the House about the absurdity and the rather alarming features that discolour Clauses 1, 3 and 4. We have got where we have got to, and these amendments will pass in due course. But the chilling feature is that, if the Bill had happened to start in the House of Commons, I have no reasonable doubt that those provisions would have come to us as drafted, after peremptory debate. The Minister would then have had no option but to say, "Well, it's gone through the Commons. What are you doing interfering with its wishes?" Of course, we would have gone on, but there comes a time when the Commons has to win.

It is pure luck that the power grab in these clauses has come before this House and that we have had this Minister here to lead her department to the obvious and sensible conclusion. But our present constitutional arrangements mean that only the coincidence that the Bill happened to start here gives us relief. If it had started in the other place, I have not the slightest doubt that this is the Bill that we would have had to consider. I find that chilling, because we all know that the opportunities for this House to change legislation that passed through the House of Commons are very limited. That is the state that our constitution has got to in 2022, and it is the most alarming feature of these clauses.

Lord Mackay of Clashfern (Con): My Lords, it is time that we made some progress. The noble Lord, Lord Knight, proposed that the Bill should go forward on Report, and the Labour Chief Whip agreed. But we are getting into doing that without having passed a Motion, so I would like it to be made clear that we will now consider the Bill on Report and deal with whatever difficulties there are as that goes on.

Baroness Penn (Con): My Lords, for absolute clarity, I say that we have had the Motion on the House considering Report, and we are now considering the first group of amendments on Report. We will proceed on that basis today.

Lord Baker of Dorking (Con): I very much support what the noble and learned Lord, Lord Judge, said. As the Convenor of the Cross Benches and one of the most distinguished former Lord Chief Justices in this House, he has had a great impact on its feelings in our debates, and I hope that the usual channels will take notice of what he said. This is such an unusual procedure; it has not happened constitutionally in the history of this House. It is remarkable that we have been given the opportunity to make such a fundamental change to any Bill. It was a bad, bad Bill to begin with, and we managed to show that. Frankly, had it come from the Commons, we would not have got anywhere near as far; we would have just been told, "That is the wish of the Commons, with the Conservative majority of 80".

I seriously hope that the usual channels will consider my noble friend Lord Cormack's proposal about Third Reading. It would be very unusual to pass a Bill of this sort to a Third Reading. But the Minister rightly said that some other parts of the Bill are very good—I certainly agree some of them, such as those on home learning—but these could be taken out, put into a separate Bill very quickly and passed in both Houses with no trouble in a few months.

The other issues are much more important, because the Government are struggling now that local authorities no longer have any real control over education. In fact, they are debarred from the committee that the Minister has set up. Am I right in saying that, as far as I can see, there is no representative from local authorities on the committee?

Baroness Barran (Con): I apologise to my noble friend but the president of the Association of Directors of Children's Services is on the committee.

Lord Baker of Dorking (Con): When I looked through the list of committee members, I could not see anyone representing local authorities. The Minister might well discuss this with them, but it would be helpful if she could send us all the terms of what they are expected to cover. If it is just about multi-academy trusts and the controls that the Government have held to regulate them, I would go along with her. If it goes further than that, I have reservations. The involvement of local communities and local views has inspired English education since the great Act of 1870. Quite frankly, however, there is none of that in this Bill; nowhere are the views of local people to be found. A school is not just an education institution; it is part of a local and social community. This has always been the tradition, and these views must somehow be reflected in any proposal that the Minister brings to us.

I am very grateful for the support of various Peers, particularly the noble and learned Lord, Lord Judge, on the question of the Government's power. This Bill increases the powers of both the Secretary of State and the department in a way that has never been known since 1870. I do not believe that the Minister had any hand in drafting the Bill. When I was Secretary of State, I always found that there was an element in the department which wanted these controls from the word go. Although these people have never run a school, some of them always want to run all the

schools—thank heavens we managed to stop that. I do not think this will come back in any of the amendments we get after the new Government take over.

This is really strange procedure but it is utterly unsatisfactory to be offered only one day for debate. The clauses will be important and a way must be found—and a guarantee given by the Government before we pass Third Reading—for us to have plenty more time to discuss it in this House, should we pass Third Reading. This Bill started in this House and can be improved again in this House.

Lord Knight of Weymouth (Lab): My Lords, I will speak briefly, focusing on this group of amendments and to help the House move on from discussing procedure and process. There are some really strong amendments in this group. It is right that the Minister has listened to us and agreed to take out the clauses that she has—extraordinary as that feels. It gives us the procedural problem that we have been debating. I welcome the contribution of the noble and learned Lord, Lord Judge, on that subject.

I support Amendment 2 in respect of "parents councils"; it is important that the voices of parents are heard in our academies. I especially support Amendment 5 from my noble friends on the Front Bench. Thinking forward to how this Bill will proceed, when we have a substantive new Secretary of State, it will be really helpful for that person to look at this amendment and make some kind of policy statement to both Houses on how they see an all-academy school system working, so that we have clarity around several issues: how we attract and retain sufficient high-quality teachers in the system; the view on qualified teachers working in academies; the view on them abiding by national pay and conditions; and how we hold accountable academies and the regional directors in the system who will be carrying out the Secretary of State's bidding. What is the role of local governing bodies alongside parents councils? That question is the substance of the next group of amendments, so I will not speak to that. What is the place of a national curriculum when academies do not need to abide by it, and what elements of the curriculum do we want to make compulsory in such a school system?

Finally, of course, there is clarifying which academy freedoms are left once all those other things have been made clear. That is the kind of thing that Amendment 5 is trying to set out; it is trying to put some kind of guide rail around the standards that will come forward in the fullness of time. On that basis, I very strongly support the amendments.

4.15 pm

Lord Addington (LD): My Lords, this group of amendments is basically a series of stand part debates and "Let's get rid and start again". As has been said, this is unprecedented. What comes in its place? Well, there is Amendment 5 from the noble Baroness, Lady Chapman. I am not sure it has my favourite tone and maybe it is too close to what came before, but it is certainly a sensible place to start a discussion. I am not sure I agree with every word of it, but it does not really matter. We are starting a process of discussion about the limits of government involvement in the day-to-day management of schools and the correct process by which to approach Parliament. The two sit together. These are two awfully big issues to be contained within one group. Occasionally, people will be drawn from one to the other—"What looks more exciting or sexier at the moment?"—and going back and down. However, I thank the Minister for listening on this point. It cannot have been easy.

I did ask the Minister whether she had figured out what she did in a previous life to end up getting this Bill. We do not know the answer to that one, but it might be quite entertaining to surmise. The fact is that the process has been unacceptable, as is the idea that a Government would take the power to actually run something. The noble Lord, Lord Baker, tells us that nobody has done it since 1870; I am pretty sure he is right. Nobody has been able to tell a school how to run in itself in minute detail—the framework, maybe, but not in minute detail. Academies were also supposed to be the great exemplar of "Let everything bloom", or "Do your own thing", and that is rather killed here. At least, that is my reading of it.

I thank the Government for what they have done; I am appalled that they had to do it. Will the Minister, when she gets back to us, give a little more guidance on what they think will replace it? They must have some idea. If we do not have some idea, and we do not extract it, we shall go round this course again. Indeed, it might be a case of leaving something in so that the Government have to come back to it. The amendment of the noble Baroness, Lady Chapman, would fulfil that purpose quite happily. We need some idea of where we are going; we are in a very odd place. I have not been here before, anyway. We need to know what is going on. Certain parts of the Bill have a degree of support, at least in principle, from around the House, but we need that little bit of structure about where we shall go next time.

Will the Minister take back to her honourable and noble friends the fact that this House has said that this is not the way forward, on any occasion? If the Bill had been a Commons starter, yes, we would have done it, but we would have been up all night fighting this tooth and nail. We might have had to give in in the end, but if the Government want to give up a month or two of legislative time, that we can give them. The debate about sitting hours and sitting up late would have become utterly irrelevant in that case, because we would have had to do it; as we might have to, indeed, when it comes to that one day of discussion on the Bill—if it is just one day. I do not particularly like staying up all night, but I am prepared to do it if I have to.

Lord Grocott (Lab): My Lords, I say very briefly that amid the myriad arguments on this group and, indeed, throughout the Bill, there is, if it does not sound too pompous, a philosophical difference, to put it mildly, about academies and their role. I have to say I particularly like my noble friend Lord Hunt's Amendment 1, with its

"strategic policy on parental and community engagement",

and I very much like the proposed new clause in Amendment 5 from my noble friends on the Front Bench, particularly proposed new subsection (2)(b)(iii) and (iv), which refers to

[Lord Grocott]

"the duty to cooperate with the local authority in school admissions; the duty to cooperate with the local authority in school place planning".

That seems to be where the divide is: whether you see these academies as part of the community and to a degree answerable to the community, with community involvement, or as islands, looking after their own interests and without any requirement to be part of the whole. We will no doubt have that debate in whatever time is allowed when the Bill comes back to us from the Commons—if it gets that far.

Lord Nash (Con): My Lords, I declare an interest as chair of a multi-academy trust, Future Academies, and a trustee of the Education Policy Institute. I am no expert on parliamentary procedure and will not comment on the discussions on it so far, but I congratulate my noble friend the Minister on listening to the concerns expressed across your Lordships' House and by the sector, and on her approach. I will reserve judgment on any clauses that come back in whatever way until I see them, but I am delighted that my noble friend and her department will now engage widely with the sector and others. I also endorse her and my noble friend Lord Baker's point that there are other very important parts of this Bill; for instance, on children missing from education, home education and illegal settings, which are long overdue for legislation.

Baroness Chapman of Darlington (Lab): My Lords, having listened to everything that has been said, it is very tempting to rub salt in the wound, but I will resist.

We are of course pleased that the Government have agreed to withdraw Clauses 1 to 18, but note that they had no other option. At first, we wondered how this had happened. I now do not think that this was just poor drafting; I think that the Government did not know what they intended to do with this Bill. I think there was a legislative slot marked "Schools Bill" and this Bill was tabled. It should never have been tabled as it was.

Things have been said about what might have happened had this Bill been presented in the Commons. Obviously, none of us knows. I like to think that that would not have happened, because someone would have seen its deficiencies and intercepted it. All the problems we have managed to surface through our deliberations—the lack of plan, the lack of vision and there being none of the pre-legislative scrutiny that ought to have taken place and which will now take place half way through the Bill's progress, over the summer—would have been exposed.

It is very sad that we have come to this because, as the Minister rightly reminds us, there are parts of the Bill—those looking at children not in school and illegal schools—whose implementation may be delayed, as it is not clear that we will get this Bill back as quickly as we might have done had it not been presented in the way it was. Quite a lot of work will now have to take place. It has obviously been an appalling process. It is heartening to know that noble Lords are not used to being treated this way and that we should not expect this from the Government in future.

Some colleagues have referred to Amendment 5 tabled in my name and that of my noble friend Lady Wilcox. To be clear, we did not table this imagining that it would be a favourite of the noble Lord, Lord Addington, or anyone else. The point was to demonstrate that the Government could have proceeded in another way. We will not push it to a vote, but it was tabled to show that you can go about these things in a much better way. There could and should have been much more clarity on what the Government wanted to do.

It is worth taking this opportunity to speak a little about this amendment—I will not go on—to make it clear where these Benches stand on some of the issues of substance that have come before us. It is important that we do that because, although the noble Lord, Lord Baker, and I have found common cause through the passage of this Bill so far, we have done so for very different reasons. It is important that we are upfront and clear about that—he would expect nothing different from me.

The first and most important line in the amendment is:

"Following the completion of the Academies Regulatory and Commissioning Review".

Nothing should have been tabled along these lines until that review was complete. I welcome the fact that the Government now share that view; it is a shame that we have had to do it in the way that we have.

I want to highlight six points that we on these Benches feel are quite important and that we need clarity on so that we know where we stand. The first is the way that academies handle complaints. Then there are the minimum qualifications required by teaching staff; you will see that this amendment complements other amendments that we have tabled around complaints, admissions and qualified teacher status. We have included adherence to national agreements achieved thorough negotiating bodies for minimum standards of pay, terms and conditions of employment, trade union recognition, adherence to the national curriculum, and, importantly, a duty to co-operate with the local authority on school admissions.

That is where these Benches are coming from on this issue. We understand that that will be very different from where other noble Lords might be coming from, but we are not having a big row among ourselves on these issues. It pleases me no end to say that that is going to be the problem of the Minister when she devises her new clauses for us to consider, perhaps later in the year.

It is clearly not satisfactory that the Government intend to come back to us with these new clauses without us having had the opportunity to debate and vote on them in the way that we would have done had this process been a more normal one. Let us see what the usual channels come up with when they consider that point; it is a point that has been very well made, and one that everyone understands. It is very unfortunate that we have got to the situation that we have, but we are interested to hear about what the Minister wants to do over the summer, using the time that she has, to consult and engage with the relevant stakeholders.

I worry that, again, this is going to be rushed. The idea that some sort of consensus will emerge at the end of it is probably unrealistic. With a likely change

of Secretary of State, we just do not know, from what the Minister has said in the past, where we are going to be led with this. It would be helpful if she could talk to us about the people who are going to be involved, the finer points of that process and what she expects. If we are right, and the Government did not know what they intended when they tabled this Bill and need to go through that process now, it is unlikely that the Minister at this point knows what the outcome is going to be, otherwise that is what would have been tabled in the first place. The more she could say about that at this stage, the better.

We will not be pressing our Amendment 5 to a vote, but it is really important that the House is clear where these Benches are coming from and how we would have approached this issue.

Lord Agnew of Oulton (Con): My Lords, I too thank my noble friend the Minister for listening, I think she has had a torrid time over the last six weeks, and has done it with great courtesy and patience. I am delighted that she is leading on the removal of these first 18 clauses. I am anxious for the Minister to reassure us, as many other Peers have said, that we will see properly the outcome of the regulatory review that has just been kicked off, because that always was putting the cart before the horse. We need to understand exactly what the Government have in mind, and to make sure that it is proportional and specific.

4.30 pm

I was given one explanation by officials: that I could rely on the principle that government will always act in a proportional way. I am afraid that I have very little faith in that, and the only defence we have in public law is a judicial review. Very few academy trusts would have the resources or the courage to bring that against the Government, knowing that if they lost, they would have the costs from the Government as well. So I ask that, maybe not today but in the course of this process over the next few weeks, the Minister gives us reassurance. For example, on the slightly pernicious reference to "interim trustees", who essentially arrive as completely powerful and able to kill off everybody in the trust and take full control, there needs to be a very specific set of reasons why something so drastic could ever happen.

I also ask that the Minister reassure us that the academy freedoms will be carefully spelt out, because that is an important principle which brings people such as me into this movement. If I am just going to be put into a bureaucratic straitjacket and told from Whitehall how to educate children, why would I bother to do it? Whitehall and DfE need to understand that the inputs needed in different communities are radically different. As I have said to the Minister before, we have two primary schools in Norwich that are two miles apart, and we use a completely different form of education in each to reflect the very different types of children we are dealing with. This is really important. I ask the Government: please do not dictate inputs to us. We have a primary school in Great Yarmouth which has finally got a good rating for the first time in the history of Ofsted's existence. Is that some 40 years? I do not know. I think my noble friend set up Ofsted; it was a long time ago. The school has been through every permutation of educational pedagogy, and we have finally found the formula. Nobody in Whitehall came up with those answers.

Lastly, on the point made by the noble Lord, Lord Hunt, over the last few weeks we have seen demonstrated what I would call the overweening will of the Executive. Frankly, they have just ploughed forward against the interests of my noble friend the Minister—and of the Secretary of State, as far as I was aware, because I had direct conversations with him about this Bill as soon as I understood the full extent of it. So, on the point made by the noble and learned Lord, Lord Judge, it is very important that the Executive not be able to just bulldoze their own agendas through. However, I thank my noble friend the Minister again, and I am delighted that these clauses are being withdrawn.

Lord Lexden (Con): My Lords, may I just point out that Mr Johnson and his colleagues sought no mandate for the substantial reform of academies in the 2019 election manifesto? There is one page devoted to education in the Tory 2019 election manifesto, and it contains no sentence on or reference at all to academies.

Lord Harris of Peckham (Con): My Lords, I thank the Minister. She has been to one of our conferences with 200 people, and I am proud to say that she is coming to our conference in October, where we will have 4,500 teachers, and seeing some of our children. I am really passionate about academies. My noble friend Lord Baker got me involved in the first one at Crystal Palace 30 years ago. That was a very bad school, where 60 children a year were expelled. Over the last 30 years, it has been one of the best schools in the country. Last year, it had 5,000 applicants for 180 places. It is a world-class school for the second time, and 35% of its children are on free school meals.

The Harris Federation runs 51 schools, 52 this year. We have only taken over free schools from start-ups or failing schools. Some 90% of our schools are now outstanding, and we have five world-class secondary schools and one world-class primary school. I have to thank Michael Gove, Secretary of State at the time, for giving us that school seven years ago under a lot of opposition. It was in the worst 2% of schools in the country but now, seven years later, it is not just outstanding: it is world class. From the start, with my noble friend Lord Baker, and through to the noble Lord, Lord Adonis, Tony Blair and Michael Gove, academies have made a great difference to many children in this country, as we have given them a better education. One of my ambitions is to see every child in this country getting a great education, because they only ever get one chance at it. They might have five or six jobs throughout their lives, but only one education.

Five years ago, everyone was against Michael Gove getting the school over the road to be a sixth form—Harris Westminster. I am so proud of that school. It was the eighth best in the country last year, with more than 50% of the children there on free meals. The seven that beat us cost anything from £50,000 to £100,000 a year to go to. It is all down to having great teachers, giving good service, making sure that children enjoy going to

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school, motivating them and making sure they do the best they can. That is what we should try to do with every child in this country. If we could do that, we would have a much better country.

Baroness Barran) (Con): My Lords, I start with an apology. Many of your Lordships started by saying that your remarks would be brief, but I apologise that mine may be rather longer. I know your Lordships will understand why, and I also say how much I appreciate the kind and generous comments that so many of your Lordships have made about my work on the Bill.

Starting with whether Clauses 1 to 18 and Schedules 1 and 2 should stand part of the Bill, I said in my letter of 30 June how seriously the Government take the views of the House and its Committees, and that is why we support the removal of Clauses 1 to 18 and have tabled the removal of Clause 2 and Schedules 1 and 2.

Before I speak about the policy behind the clauses, I confirm and shall elaborate on, as a number of your Lordships have asked me to do, our plan to develop new clauses. We will work closely with the sector and parliamentarians over the summer with the intention of developing a revised approach to the academy trust standards. I have had a brief conversation with the noble Baroness opposite about how the Opposition Front Benches want to be involved in this, but I extend my earlier invitation. We will take whatever time is needed to engage with your Lordships and those whom you believe it is important for us to talk to, but I ask your Lordships first to look at the information we have already posted on GOV.UK, and I shall set out in a letter a little more about our intended engagement plans, so that we use everyone's time as intelligently as possible.

I am pleased to inform the House that we held the first meeting of the external advisory group, which I chair, last week and we began discussing these important matters. On my noble friend's question about the terms of reference for the group, they are on GOV.UK, as is its membership. Its purpose is set out and the inbox for anyone wishing to contribute to the review is also there. I shall make sure that all those details and the links are included in my letter to your Lordships following this debate. We are planning an intensive programme of engagement with the unions and leaders of schools of all types, both multi-academy trusts and maintained schools. We have already started talking to a number of key system thinkers in the field and, importantly, a number of representative bodies, including, of course, the Churches. The interim findings of the review will inform a revised legislative approach to the academy standards.

I turn specifically to the amendments tabled by the noble and learned Lord, Lord Judge, my noble friend Lord Baker, the noble Lord, Lord Addington, and the noble Baroness, Lady Chapman, which seek to remove Clauses 1, 3 and 4; and to the amendments in my name, which remove Clause 2 and Schedule 1 and make consequential changes to the Bill. I acknowledge that they are the correct response to concerns about both the drafting of the clauses on academy standards provisions as they stood on the introduction of this Bill and the breadth of the delegated powers that were proposed. The Government are supporting these amendments at this stage to secure time to engage with the sector and relevant stakeholders, and to reconsider how best to implement the policy intent behind these measures in legislation ahead of Committee in the other place.

Furthermore, in response to the Delegated Powers and Regulatory Reform Committee's recommendation, we are determined to use this summer's review to find a way that meets our policy objectives without the need for the Henry VIII power originally sought through Clause 3. The Government remain firmly committed to a fully trust-led school system; to enable this, we are still clear that changes are needed to the way the school system is managed. My noble friend Lord Lexden referred to the Government's manifesto, but I would also refer him to the schools White Paper, where we set out clearly our plans in relation to this.

We need to establish a statutory framework that enables effective, risk-based regulation and ensures that the same minimum standards are applied consistently across all trusts. By defining the scope within which the Government can set standards, we will be able to protect the core academy freedoms from being amended by the regulations. We want to provide clarity for the academy sector about the limits of the Secretary of State's powers to make decisions on its behalf, as well as sending a strong signal to the wider school sector about the Government's commitment to moving to a fully trust-led school system in which all schools can benefit from being part of strong multi-academy trusts. The examples given by my noble friend Lord Harris were wonderful; I look forward to the next conference.

The intention behind the drafting of these clauses was to take an important step towards securing the permanence of that system and to bring clarity to the limits of the Secretary of State's powers. Although Clause 1 was intended to reduce the complexity of the regulatory landscape by bringing existing requirements into one set of standards, I recognise the concern that, as drafted, the clause would allow a Government to go beyond these intentions. The Government's aim is not and has never been to centralise power over academies or undermine their freedoms.

As my noble friend Lord Agnew elaborated on, we know that the best academy trusts use their freedoms to transform outcomes for pupils, particularly the most disadvantaged, and deliver improvement in schools and areas where poor performance has become entrenched. We do not believe that great trusts are made through lists of standards and regulations, and we do not intend to micro-manage or further centralise power over them. Rather, we want to simplify the regulatory framework for academy trusts, seeking opportunities for deregulation where it is appropriate to do so. Our intention is to bring back a revised power that makes the limits on the Government's powers crystal clear. I wish to provide certainty that we will protect the fundamental freedoms to which my noble friend Lord Agnew referred.

Through our work to develop revised clauses, we will seek to establish the principles on which the academy standards will be based and ensure that any

delegated powers sought provide a more clearly defined and constrained regulatory approach. Through these reforms, we are committed to creating a regulatory environment that enables the best academy trusts to drive system-wide improvement through innovation and best practice while ensuring that all academy trusts meet the same minimum standards, providing fairness and consistency for all. I will now turn to the remaining amendments relating to Clause 1.

4.45 pm

Amendment 1, in the names of the noble Lords, Lord Hunt and Lord Blunkett, and Amendment 2, in the name of the noble Lord, Lord Hunt, are intended to ensure that every academy has a parent council and a policy on parental and community engagement. I assure the noble Lords that we recognise the important role of parental and community engagement. Each academy trust, through its funding agreement, has an existing duty to ensure that each of its academies is at the heart of its community, promoting community cohesion and sharing facilities with other schools, educational institutions, and the wider community. The *Governance Handbook* contains guidance on parental and community engagement. Academy trusts are best placed to decide what engagement methods work best in their local context.

Amendment 3, also tabled by the noble Lord, Lord Hunt, would require the Secretary of State to make regulations requiring each multi-academy trust to set out the responsibilities to be devolved to the local governing body. We will discuss with the sector how to implement local governance arrangements for schools in all trusts, as we set out in the schools White Paper. I am sure that your Lordships understand that we do not want to pre-empt the outcome of those discussions.

Amendment 5, in the names of the noble Baronesses, Lady Chapman and Lady Wilcox, presents a revised version of the academy standards clauses. While the noble Baronesses have included a list of the areas for which the regulations can make provision, I am sure that, as the noble Baroness, Lady Chapman, reflected, they will understand that the Government think it right to await the outcome of the first part of the regulatory and commissioning review so that the revised clauses can be informed by its findings and our engagement with the sector.

Turning to subsections (3) to (5) of the new clause proposed by the amendment, the Government have no intention of increasing the regulatory burden on the academy sector. We will work closely with sector representatives over the summer on this point. We expect that the first set of academy standards will largely reflect existing standards and requirements placed on academy trusts. It is the responsibility of the academy trust to ensure that the standards are met in full within the trust. Finally, I can confirm that every iteration of the regulations will be subject to the affirmative procedure in Parliament.

Responding to the point raised by the noble Baroness, Lady Chapman, and the noble Lord, Lord Grocott, in relation to the role of the local authority in admissions, we have tried to set out our plans but perhaps we need to repeat and reinforce what we said in the White Paper. Local authorities will remain responsible for delivering the right number of school places in their area and will continue to play a central role in fair admissions, particularly for the most vulnerable children. We will consult on local authorities co-ordinating all applications in year as well as for the main round of admissions, which was a point raised by the noble Lord. We will also consult on strengthening the processes by which vulnerable children are found and secured a school place quickly, whether that is in mainstream or alternative provision, which will include a new, limited local authority power to direct academies to admit a child on those rare occasions where the normal collaborative routes have been exhausted. I hope that gives some context. I mention it to underline the point that the Government and my very able officials in the department are really prepared to go through all these important points of detail with your Lordships to ensure that we are debating the points where we really disagree, rather than the ones where, hopefully, we are on the same page.

The Government acknowledge the concerns that have been raised on the academy trust termination and intervention powers in Clauses 5 to 18 and Schedule 2. Those clauses are intended to provide a proportionate and transparent framework for intervention in under-performing academy trusts. However, I recognise that there are concerns in the House that the powers could be used disproportionately, particularly to enforce the new standards. These concerns are reflected in amendments which have been tabled by my noble friends Lord Baker, Lord Nash and Lord Agnew to oppose these clauses standing part of the Bill.

We are supportive of these amendments, and I have tabled an amendment to remove Schedule 2 to complete their effect. The overarching aim of these provisions is to put in place a ladder of intervention, enabling the department to address issues at the earliest opportunity in a proportionate way, rather than having to rely on termination powers. We are committed to putting in place a regulatory framework which enables the department to act where necessary to ensure academies meet the minimum standards that the Government and parents expect of them.

I believe the concerns about Clauses 5 to 18 are different in their nature and extent to those about Clauses 1 to 4, and I want to be clear that our approach to the intervention and termination provisions will, in general, be maintained. I am grateful to your Lordships for the thoughtful scrutiny of these provisions and I look forward to engaging with members across the House as we bring forward revised measures.

Lord Hunt of Kings Heath (Lab): My Lords, it has been a very interesting debate, and I am very grateful to the Minister because I think she very carefully set out the context for the work that the Government are now going to take forward in her wind-up speech.

I was very struck by the tension at the heart of what she said. She was seeking to reassure her noble friends behind her that academy freedoms were not under threat in the work that was being undertaken, but at the same time she used the words "fairness" and "consistency". We need to say that the importance of these 18 clauses, particular Clauses 1 to 4, is that the

[Lord Hunt of Kings Heath]
Government in their White Paper signalled that all schools are to become academies. They will then move into multi-academy trusts. What we are talking about is the essential governance and accountability of all schools in England. That is why these clauses are so important.

I am not sure how long the work is going to take. I think it is going to take quite some time, and I think it is going to be quite some time before we see the Bill coming back to your Lordships' House. The one thing I do know is that it will not be satisfactory for us to spend a day on this. We must enable ourselves to go through a procedure whereby we have a proper committee report and then we can send whatever we like, if we wish to, back to the Commons. The noble and learned Lord, Lord Judge, very helpfully referred to the *Companion* and a particular reference point—I think it was paragraph 8.132. A clear message has been given to the usual channels to go away and discuss this so that, before Third Reading, there is clear understanding about how the House is to scrutinise the changes that are likely to be made in the House of Commons. I think the Front Benches on all sides of the House have taken that to heart.

I do not think we can take this any further today. We should allow the removal of these clauses. I think, once again, we should reflect that we are essentially talking about the future governance of all schools in England. That deserves thorough scrutiny. Having said that, I beg leave to withdraw my amendment.

Amendment 1 withdrawn.

Amendments 2 and 3 not moved.

The Deputy Speaker (Baroness Garden of Frognal) (LD): I think Amendment 4 is in the name of the noble Lord, Lord Addington.

I am so sorry. I have the name of the noble and learned Lord, Lord Judge, here, but it is not against an amendment.

Amendment 4

Moved by ***Lord Judge***

4: Leave out Clause 1

Lord Judge (CB): I beg to move Amendment 4, and I think the House might be quite pleased to agree to it.

Amendment 4 agreed.

Amendment 5 not moved.

Clause 2: Academy standards: relationship with contractual agreements

Amendment 6

Moved by ***Baroness Barran***

6: Leave out Clause 2

Member's explanatory statement

This amendment is consequential on the removal of clause 1.

Amendment 6 agreed.

Clause 3: Academies: power to apply or disapply education legislation

Amendment 7

Moved by ***Lord Judge***

7: Leave out Clause 3

Amendment 7 agreed.

Schedule 1: Application of maintained school legislation to Academies

Amendment 8

Moved by ***Baroness Barran***

8: Leave out Schedule 1

Member's explanatory statement

This amendment would leave out Schedule 1, which contains amendments relating to the application of education legislation to Academies.

Amendment 8 agreed.

Clause 4: Academies: guidance

Amendment 9

Moved by ***Lord Judge***

9: Leave out Clause 4

Amendment 9 agreed.

Amendment 10

Moved by ***Lord Storey***

10: After Clause 4, insert the following new Clause—

"Academies: local governing bodies

(1) A proprietor of two or more Academies must establish a committee ("a local governing body") for each Academy in its care.

(2) A local governing body must comprise the following persons—

(a) the headteacher of the Academy;

(b) at least one person appointed by the proprietor of the Academy;

(c) at least one person employed by the proprietor to work at the Academy, elected by those persons employed by the proprietor to work at that Academy;

(d) at least one parent or guardian of a pupil registered at the Academy, elected by the parents and guardians of pupils registered at that Academy;

(e) at least one person appointed by the local authority in England in which the Academy is located.

(3) A local governing body may apply to the Secretary of State to transfer the Academy for which it is responsible to the care of a different proprietor.

(4) Regulations may make further provision about the powers of a local governing body.

(5) In this section "local authority in England" has the same meaning as in section 579 of the Education Act 1996 (general interpretation)."

Member's explanatory statement

This amendment ensures that there is a governing body for each individual Academy with a role for parents and the local authority on each governing body.

Lord Storey (LD): My Lords, I shall move Amendment 10 in my name and speak to my Amendment 43 in this group. I preface my remarks by commenting on the important points that the noble Lord, Lord Harris, made about schooling. He is absolutely right that it is the role of school to motivate children. It can do that with the best possible teachers and resources. As the noble Lord rightly said, children get only one chance, but I think he missed out leadership. Leadership is hugely important.

In this debate about academies, one of my concerns has been that we almost regard maintained schools as not very good and have forgotten them. I have rarely heard Ministers praise maintained schools that did a good job in turning themselves around. You have to look only at the area where I taught: there was a maintained secondary school called the Grange School, which had appalling results. Along came a new head teacher, with dynamic leadership, and the school blossomed and thrived in exactly the same way as the schools that the noble Lord, Lord Harris, talked about.

I hope we can stop this business of claiming that one type of school is better than another. I remember the constant "Well, academies' results are better than those of the maintained sector." We can all play that game, if we want to. The latest figures out now—I do not particularly want to dwell on this—say that the maintained sector is possibly performing better than the academies sector.

That does not matter now, because we know the Government's direction of travel. We know that academies started during Tony Blair's Government and developed during the coalition, with my party working alongside and supporting that development. Much to my regret, as I always thought there would be a dual track in the maintained sector, we saw that if there was a slight suggestion that any school was failing, it was immediately pushed into an academy. But we have moved past those days.

At Second Reading, I welcomed the fact that we are moving towards one system of schooling. It would not have been my choice of how we do it, but we are there now and, over the next 10 years, I think we will see all schools becoming academies and local authorities being given the opportunity to create multi-academy trusts. The amendment in the last group in the name of the noble Baroness, Lady Chapman, and referred to by my noble friend Lord Addington, is one of the ingredients of a multi-academy trust that is hugely important. We will come back to that in future.

This group is about governance. I remind your Lordships of my major concern. If we look at the top 10 multi-academy trusts, we see that they have 70 or 80 schools. Take United Learning just as an example, with 75 schools which stretch from Barnsley to Stockport, Manchester, Oxford, Bognor Regis and all over the country. The trust and the trustees are headquartered in the south-east. I have concerns about that and about how the trustees of that multi-academy trust relate to local people and local communities. We have always agreed that the local community is an ingredient of a successful school, so we need to look at how we can recognise and develop community links and relate to the community and the locality.

5 pm

It is interesting that the 2,539 trusts now established are made up of only 10,000 schools. The largest proportion is in the south-west—58%—and the smallest number is in the north-west—26%. The largest geographical areas where these trusts are headquartered are, as you can imagine, the south-east and the south-west.

That brings me on to the issue of the governing bodies of schools. We know that academy trusts set the strategic direction of the trust, hold the senior leadership to account and oversee the trust's financial performance, but governing bodies of schools are equally important. Governing bodies are there to do a number of very important tasks: to build up that community relationship that I talked about; to establish ethical standards; to monitor and evaluate the progress of a school; to be curious and critical; and to ask difficult questions. Governors of schools should be good at problem solving and be prepared to give and take advice. It concerns me that we are seeing a number of multi-academy trusts deciding that they do not need a governing body and not putting anything in its place to do the things I have talked about. Amendment 10 states that every school should have its own governing body. It is crucial. It is a way of relating to parents in the community and of involving teachers in a school. I hope that when the Minister replies she will reflect on what I have said on this amendment and will support it. I beg to move.

Lord Hunt of Kings Heath (Lab): My Lords, in the unavoidable absence of my noble friend Lady Blower I shall speak to Amendments 33, 34, 37, 38 and 41, which are in my name and that of my noble friend. They are concerned with the process by which a school becomes an academy or an academy trust joins a multi-academy trust, and they essentially seek to ensure early consultation with staff and parents before any hard decisions are made.

I agree with the noble Lord, Lord Storey, on his amendment because I had a similar amendment in Committee and I am very glad he has taken it up, and because it is rather wearying to listen to the litany of academy successes when we know that it is a very mixed picture and that there are many fine maintained schools. We also know that the Government's decision is to move to full academisation. That is the context in which we are now debating these matters.

What has been so striking for me watching the academy movement is how secretive so many of the arrangements have been, with parents and staff excluded until after the key decisions have been made, and an absence of meaningful consultation. What happens is that a decision is made by a governing body, which consults on it and then agrees that its original decision was the right one. That is not proper consultation. I seek to say that parents and staff deserve to be talked to at the beginning about choices and fundamental challenges and to be very involved, rather than essentially having a decision handed down to them.

The National Governance Association, for which I have a great deal of admiration, has briefed that it is particularly concerned about Clause 29, which allows local authorities to apply for academy orders for its

[Lord Hunt of Kings Heath]
maintained schools without governing body consent. It thinks that governing bodies are best placed to understand their schools' contact and to take good decisions about their future. However, sometimes governing bodies seem to find it impossible to take staff and parents into their confidence.

I draw the Minister's attention to the situation at Holland Park School and its basically enforced move into the United Learning academy trust against the wishes of many parents and staff. In the last year, Holland Park School has been undergoing what can be described only as a turbulent transition to new leadership in the wake of the sudden departure of its head teacher and many of the school leaders and the consequent falling away of an evidently problematic management style. The replacement governance team failed to bring the staff on side and, as a result of continued failings in governance and leadership, recently received a poor Ofsted report. When I read it, I found that the report focused mainly on poor governance and leadership as opposed to the quality of teaching, where Ofsted acknowledged that teachers "have secure subject knowledge" and

"benefit from good-quality training that supports them in delivering the curriculum."

The irony is that the failing governing body's obsession with forcing the school into a large and geographically widespread trust is the one thing that is being taken forward by the regional schools commissioner, because under the rules she now has to make a decision about what happens to Holland Park. She has quickly decided to recommend that it joins the United Learning trust. That is now going out to consultation, but who can have any faith whatever that it is going to be a proper consultation when the commissioner has already said what her preference is?

That has been done despite the local authority supporting the locally preferred solution of a local multi-academy trust, with Holland Park School joining Kensington Aldridge Academy, by making a £1 million loan available to support that. The decision has been made despite the local Conservative MP, Felicity Buchan, issuing a public statement referring to

"a strong preference amongst parents, teachers, RBKC Council, the MP and the wider community"

for Holland Park to join a local MAT. That is a reflection of what has been happening up and down the country, where these decisions are made rather high-handedly and then put out to consultation, and the last people to be involved are the people who should be involved in the first place: the parents and teachers at the school.

The implication of what is now happening, with essentially all schools becoming academies, is that they are going to have to be placed in a much stronger governance structure. I think that is the reason why the Minister's noble friends behind her look so worried. Whatever she says about "freedoms", it is abundantly clear that we will now have a system where the Secretary of State is responsible to Parliament for all schools through the multi-academy trusts. As someone who has spent years and years wrestling with governance and accountability in the health service, and the tension between national direction and responsibility and local freedoms, I say that the Minister has a huge challenge when leading the governance review that we referred to in the last debate.

My amendments try to say to the Government, when going forward with academy status for all schools and then translation into multi-academy trusts, please let us have a much more open process by which those decisions should be made. Do not present teachers and staff with a decision that says, "We have decided to go with this multi-academy trust and we're going to consult on it". There should be much more open consultation; there should be much more debate about which MAT an academy trust should go into. Of course, I hope that this will form part of the review that she will undertake over the next few months.

The Duke of Wellington (CB): My Lords, I speak to Amendment 42 in my name, and I am very grateful to the noble Lord, Lord Baker, for signing it. The noble Baroness, Lady Morris, also wanted to sign the amendment—unfortunately, she is not here today—but her email to the Bill office arrived a few moments too late. But to have two former Secretaries of State from different parties supporting the amendment demonstrates that this is in no way a party-political matter; it is a cross-party amendment.

It is, of course, a small amendment in that it applies only to a very limited number of specialist schools. The Bill in general affects thousands of schools, but at the moment I believe there are only about eight maths schools and a similar number of music and ballet schools in the music and dance programme. They are all centres of excellence; they take children purely on their talent in that specialisation. A high proportion of the children come from disadvantaged households and ethnic minorities. In the case of the maths schools, all the children get high grades at A-level and all go to leading universities. King's Maths School, of which I am patron, recently celebrated being named by the *Sunday Times* state school of the decade. I was sorry that, in the end, the Minister was unable to come to that celebration. She would have seen how incredibly important it is to preserve that and other maths schools.

The music and dance school I know best is the Royal Ballet School where, for 10 years, my wife was chairman. I can tell you that all the students from there, on leaving the school, were offered places in leading ballet and dance companies both in the UK and abroad.

The point is that these specialist schools are really worth preserving. I put down a probing amendment in Committee and I have re-read this morning in *Hansard* the response from the noble Baroness, Lady Penn, on behalf of the Government. She said,

"it would be wrong to exclude any schools in the maintained sector with a music, dance or maths specialism from the benefits of being part of a strong trust."—[*Official Report*, 15/6/22; col. 1607.]

I realise that this statement was meant to reassure me and others, but I must respectfully disagree with two presumptions in it. First, it is not at all clear that there would be any benefit for those schools to be part of a multi-academy trust. Secondly, it is also far from clear that multi-academy trusts are all strong.

5.15 pm

Yesterday, the Minister wrote to Peers, saying that

"we will consider whether anything needs to be done to ensure that the Bill would not allow the Secretary to State to require a standalone academy to join"—

a multi-academy trust

"except in the very limited circumstances I have described above".

May I politely suggest to the Minister that Amendment 42 will do just that, and could therefore be accepted by the Government, as it would ensure that a future Secretary of State could not act without the agreement of the governing body and, at maths schools, without the agreement of the sponsoring university?

In her letter, the Minister also refers to the point made by the noble Lord, Lord Deben: that these schools could be forced to join multi-academy trusts by the threat of withholding funding. But the Minister then gives assurances only about the funding of mainstream academies, so it does not really meet the point.

We must be clear that these schools are very special. The music and dance programme was started by a Labour Government, but has been supported by subsequent Governments. The maths schools were started by the coalition Government when Michael Gove was Secretary of State. To alter their structure and governance would risk their ethos and their extraordinary record of achievement, professionally and socially.

The Minister and her officials appear to believe that the "halo effect"—her words—could be disseminated across many schools in a multi-academy trust. The Minister, as so many Members have said, is so respected in this House and, for that reason, I am sorry to disagree with her. These schools were created to produce excellent outcomes for gifted students. They have been a huge success and we should not risk this success so that government can place all schools in standardised structures, which may be beneficial for mainstream schools but not for these very few educational establishments which the country is so proud of.

When we get to it—unfortunately, I understand that it does not come for a while—I will move my amendment. I hope it will be supported; indeed, I hope it will be accepted by the Government before we get to a vote.

The Lord Bishop of Durham: My Lords, I agree with the noble Lord, Lord Storey, that there are many maintained and voluntary-aided stand-alone schools that have turned themselves around incredibly well through good leadership and high-quality teaching, so academisation is not the simple answer. Local leadership and governance undoubtedly need to be got right. I declare my interest as chair of the National Society and would like to highlight the importance here, in the church sector, of the diocesan boards of education as key local engagers. We will come to that in a later group.

Local knowledge of schools is crucial in ensuring that their flourishing is provided for. However, I am going to disappoint the noble Lord, Lord Storey, because I find the amendment overly mandatory and restrictive, giving too much power to a local body to trigger a school leaving an academy trust; I am not sure that that is right. The principle of local governance needs to be got right. I am not convinced that this amendment as proposed is quite the right way to do it. As was said in Committee, it is important to have proper local engagement, but it must not be too detailed in how it is mandated.

In relation to that, I support the proposals from the noble Lord, Lord Hunt, around local consultation in Amendments 33, 34, 37, 38 and 41, because that is critical. Also critical is Amendment 43 on geographic consultation. I share the concern of the noble Lord, Lord Storey, about multi-academy trusts that are spread out a long way. Inevitably, people based in the south-east will not know, for example, what is going on the north-east, in my patch. That geographic consultation is very important.

Amendment 45, which has not been talked about, is about the inspection of MATs. It is surely inevitable, if we move in the direction of travel that the White Paper lays out around all schools being in strong multi-academy trusts, that we are going to have to have a new system of inspection for MATs by Ofsted. I would like to highlight an example of an alternative way of doing it, which involved the diocese of Birmingham's MAT and the diocese of Liverpool's MAT. They have twinned to undertake mutual scrutiny and support. We heard about it at the conference last week, which the noble Baroness attended, for which I thank her. They found that the most powerful, helpful way of improving themselves and learning was by twinning with a MAT that had a similar flavour—they were both diocesan Church of England school MATs—but in different geographical settings. As we look to explore the proper inspection of MATs, let us also be imaginative about how that might be done.

Lord Shipley (LD): My Lords, my name is attached to Amendment 10. As we start Report, I remind the House that I am a vice-president of the Local Government Association.

I spoke in Committee on the issue of governing bodies applying or being established for all academies. I have a serious concern about multi-academy trusts which are not geographically located in a small area but are spread, as the right reverend Prelate has just reminded us, across the country. It is the question of local accountability to a neighbourhood or a community that I feel most strongly about.

The noble Lord, Lord Hunt of Kings Heath, made a very important contribution and a very convincing case about the issues around the consultation of governing bodies in maintained schools at the point it might be proposed that they are going to transfer to academy status. The example he gave us, of Holland Park, was particularly important. Having been given a pamphlet by those across the road explaining the problems they thought the schools had with the process being followed, I found it to be particularly convincing. I hope that the Minister, in the course of the summer, when these matters are to be looked at again, will give some consideration to a process which seems to be that a decision is made and the consultation follows. I would be much happier if there was a preliminary consultation before a decision was made.

I come to the principle in Amendment 10. Amendment 43, which my noble friend Lord Storey raised, is about how it might be possible for a multi-academy

[Lord Shipley]
trust to engage better in a local area if it does not formally have a governing body—although the amendment does not rule one out. For me, this is an issue of principle: every individual academy should have a governing body. Many of those who have contributed on Report so far, and who may do so later, might have been governors of schools. Having been the governor of several schools over several decades, I know that a governing body can be a structure that solves problems before they get more complex or difficult.

When a school transfers from maintained status to an academy, I do not want its governing body to feel that, somehow, its commitment to that school has been lost. So where there is a representative system that functions well, I do not see the benefit, either to the multi-academy trust or the local area, of losing the experience and expertise that a governing body can bring.

In conclusion, having a governing body for each academy would help to engage parents and the local authority and resolve problems much earlier than they otherwise might be. Another benefit is that a governing body can hold a multi-academy trust to account in its area because, where a trust is spread across the country, it is possible that decisions could be made that do not have the support of a particular academy in a particular area. Giving a voice to that academy through a governing body is, for me, an important issue of principle

Lord Baker of Dorking (Con): I support the amendment about specialist schools in the name of the noble Duke, the Duke of Wellington. It also touches on academies. As the founder of academies, I never at any time said that all schools should be academies. In fact, when we established them as city technology colleges in the 1980s, I said that they should be beacons for other schools to follow if they wanted to—I was not prescriptive. I was asked several times whether I would support that concept and I never have. It took a huge step forward under Labour when the noble Lord, Lord Adonis, who is in his place, persuaded Tony Blair to go for 200 academies and the Labour Party accepted this.

There is no doubt that some schools improve when they become academies, but there is a geographical spread. My friend the noble Lord, Lord Storey, emphasised how many of the successful MATs are in the south-east and south-west—the Home Counties areas, as it were. In the very depressed areas of Stoke, Sandwell or Blyth in Northumberland, where youth unemployment is 20%, there is no easy switch to say that if schools there became academies, they would suddenly get better. Many of these areas have what are called sink schools, which continue to be inadequate or require improvement, again and again. There have been studies on this recently, and making these schools academies does not necessarily have any effect on them, because a fundamental change in the curriculum is needed.

A specialist school makes a fundamental change in the curriculum. When I started to promote university technical colleges over 12 years ago, they were specialist schools that did not have to follow the national curriculum of Progress 8 and EBacc; rather, local people could decide what they wanted to specialise in. That was the breakthrough.

5.30 pm

As a result, we focused first on engineering, construction and digital. However, as more people came to us, the local community decided. In Elstree—Elstree is next to the film studio—they decided not to do engineering or construction but to focus on film production instead. It is a now a very successful specialist school for film production. With streaming services, including Netflix, there is huge increase in the creation of original material.

The school that came to us in Salford is on Salford Quays, the heart of the television industry of the north of England. It decided that it wanted to focus on television, so it has courses specialising in television. In fact, there is a conference on Thursday of eight UTCs doing this sort of work, which is sponsored by the British Film Institute. Hundreds of students will turn up, all of whom are studying subjects which will get them jobs in the entertainment world.

There is another in Tower Hamlets in the East End of London. Our UTC there specialises in two fields: health and social care, and creative writing and the theatre. It works with the National Theatre. We had 30 leavers last year: they were mainly Bangladeshi girls who all went on to university in those two disciplines. This is an area where normally only 5.96% go to university. So there is a real need for specialist schools of a certain sort.

When I was Education Secretary, I set up a specialist school in Croydon, London called the BRIT School. Its students start at 14, and it is highly selective—after all, no one wants a mixture-quality choir, orchestra or band. It is very successful; it produces most of our pop stars, including Adele, Amy Winehouse and other singers who are presently very popular. Again, this is a specialist school; we are moving into the era of more specialist schools. As my noble friend said, he specialises in science, maths and dance. These are all areas from which someone can go into work quite easily. There is one common feature of all these specialist schools: they do not have to follow the Gove curriculum of eight academic subjects, all of which were identified word for word in 1904.

In the age in which we are now living—the digital age—we are going to need more specialist schools. The thing that will really open this up is the green agenda, which is so large that it is multicultural and multidisciplinary. At present, the education system is not geared up to it. None of our schools are really teaching this. The only way that it can be taught is through a bit in geography on climate change, and I suppose they still teach the carbon cycle in chemistry—I remember studying this when I was doing chemistry. However, there is nothing else. What we will need in a green agenda is, for example, a specialist school in hydrogen. As Teesside is going to build a very big plant dealing with hydrogen—on which we are spending only one-eighth of what France is spending—there could be a school there specialising in hydrogen. There would then need to be schools somewhere else specialising in global warming, electric vehicles and net zero.

There was a very interesting report on "Farming Today"—which I listen to every morning, because you wake up very early when you are old—about a farm somewhere in the north of England that had devised a way of reducing the noxious fumes of cow slurry. Cow

slurry makes farming one of the most harmful industries, so it is important for a way to be found of dealing with it. It was interesting because they had a very big tank, half the size of a container, and they use principally electricity to break up the cow slurry and to create nitrates, thereby turning the slurry into very useful ordinary fertiliser. However, to create the electricity, they will have their own solar panels. This shows how the green agenda will be so complicated and different that it will need more specialist schools. That is why there has to be a fundamental reform of education.

Schools across our country are now teaching the eight academic subjects that were agreed in 1904. We are not moving our schools toward what is needed in this day and age, but specialist schools are a way of doing it.

Baroness Wilcox of Newport (Lab): My Lords, our Amendment 44 would remove the exemption that teachers in academies have from needing to have qualified status, but it gives a grace period until September 2024 to give schools and teachers time to adjust, which we feel is a sensible way forward. It redresses the opt-out from 2012, when David Cameron removed the need for academies to have QTS. Since that time, there has been a decade where children and young people have been taught in academies by unqualified staff. We assert that, in recognition of the preparation teachers must undergo, the term "teacher" should be reserved solely for use by those with QTS and that a person in training should have a separate designation. This amendment would ensure that all pupils in every school were taught by a qualified teacher.

The quality of the teacher is the most important factor in academic and non-academic attainment. Those of us in your Lordships' House who have had the privilege of working in the profession would surely agree. Teachers need pedagogical content—knowledge—as well as a strong understanding of the material being taught. They must also understand the ways students think about the content, be able to evaluate the thinking behind students' own methods and identify students' common misconceptions. All these areas are covered in training teachers towards QTS: it is not just about having the knowledge and content of the subject itself; teachers must have knowledge and understanding of how children learn in order to convey that knowledge. There is quality of instruction, classroom climate, classroom management, teacher beliefs and professional behaviours, all of which impact on the quality of education experienced by our pupils.

The Government need to match the ambition of Labour's national excellence programme. We have plans and visions for education: we will recruit thousands of new teachers to address vacancies and skills gaps across the profession; we will reform Ofsted to focus on supporting struggling schools; and we will ensure that the best, fully qualified teachers are in our schools by providing teachers and headteachers with continuing professional development and leadership skills training. This amendment would begin to address these current failings in the system.

Our Amendment 45 would mean that all multi-academy trusts were subject to Ofsted inspection. We want there to be more accountability for the decisions taken at MAT level, including the necessary interventions when there are failures within the trust. We recognise that Ofsted "summary evaluations" of MATs were introduced in 2018, but these are done only with trust consent. They offer no gradings, do not cover every trust and do not target those causing concern. Recent updates to the guidance on those inspections should help to broaden their remit and increase their volume. However, Ofsted itself has highlighted the need to go further, noting the "peculiarity" of not inspecting MATs on their governance, efficiency and use of resources.

The Labour Party proposes in this amendment that MAT inspections should include a proper assessment of leadership, governance and safeguarding arrangements. We also support the amendments moved by my noble friend Lord Hunt, which address the issue of "proper consultation". Parents and staff need to be consulted at the beginning of any process. Additionally, we offer our support to Amendment 10 in the name of the noble Lord, Lord Storey, which would require a proprietor of two or more academies to establish a local governing body for each academy in its care, with a role for local authorities, parents and carers.

Lord Lucas (Con): My Lords, I am attracted by the noble Baronesses' Amendment 45. From a parent's point of view, I think it is key that information should be available on what a multi-academy trust is about: what is its style, what are its beliefs, what atmosphere is it seeking to generate in a school? Within the structures of a multi-academy trust, particularly one that is strongly centrally controlled, this makes a great deal of difference to a school. In judging whether your child will flourish in and be supported by a school and will have their particular character and ambitions celebrated by a school, knowing how the multi-academy trust looks at things—not just the head teacher it has in place at that particular moment—is a really important part of the judgment. To have some narrative on that from Ofsted strikes me as being the best practical way of getting that information out to parents.

I am also attracted by the amendment proposed by the noble Duke, the Duke of Wellington. I have not seen, in my experience of running the *Good Schools Guide*, schools groups that successfully embrace schools of a really different character. Schools groups are human organisations; they need to have a philosophy of life, a way of doing things, and to have within them schools of radically different philosophy poses great challenges. I cannot recall an example of that being done successfully. Usually, one philosophy or the other comes to dominate, and that produces, in those schools that really do not belong with that philosophy, a lack of tone and performance which reduces their value to the children attending them. This is a really difficult thing to do well, and therefore I support the safeguards proposed by the noble Duke, the Duke of Wellington.

The Government have the whip hand in the end. They are providing the money and can push something through against opposition. If it is ridiculous, they will not find themselves in an Ampleforth situation, because they are the paymasters. However, I think the decision to push a specialist school into a generalist trust is one that ought always to be taken with a great deal of care, and that is what I think the noble Duke's amendment would produce.

Baroness Hooper (Con): My Lords, I support the noble Duke, the Duke of Wellington, in his Amendment 42. I declare an interest as a co-chairman of the All-Party Group on Dance, as well as having been a pupil of the Royal Ballet School so long ago that it was still then called the Sadler's Wells Ballet School and it was not then a boarding school. I can vouch for the fact that the academic needs of the children were so well catered for—alongside our specialist ballet lessons, of course—that after I returned to my previous school after an experimental year in London, in digs at the tender age of 10, I actually skipped a year. So, these specialist schools have a very good and fine academic reputation, but they also have an important international reputation and attract international pupils and funding to this country. I hope my noble friend will consider this amendment very sympathetically.

Baroness Barran (Con): My Lords, these amendments reflect the House's interest in ensuring that the regulatory framework underpinning a fully trust-led system is fit for purpose. I will take Amendments 10 and 43 together, both of which have been tabled by the noble Lord, Lord Storey. As I have already explained, the Government intend to withdraw Clause 4, to which Amendment 10 relates. This will enable discussion with the sector as to how to implement local governance arrangements for schools in all trusts, as we set out in the schools White Paper. In addition, we have already committed to consulting on the exceptional circumstances in which a good school could request that the regulator agrees to the school moving to a stronger trust. It would be inappropriate, however, to pre-empt the outcome of those discussions and the planned engagement with the sector.

5.45 pm

Turning to Amendment 43, the schools White Paper set out a vision for the relationship between different actors in the local school system. This included a new role for the local authority championing the best interests of children in their area. The White Paper also committed to a collaborative standard for trusts that will ensure they work constructively with each other and partner organisations for the good of their communities. We will be engaging with the sector to develop the detail of the collaborative standard over the coming months. We think that the current arrangements and proposals provide a sound basis for ensuring that multi-academy trusts can relate to the locality in which they serve.

I turn now to Amendments 33, 34, 37 and 38, in the names of the noble Baroness, Lady Blower, and the noble Lord, Lord Hunt. Amendment 33 would require a local authority to obtain the consent of a school's governing body before applying for an academy order. We expect local authorities to develop any plans for moving to a trust-based system with the schools in their areas. However, in some cases it may not be possible to reach full agreement between the local authority and individual schools—for example, where a governing body is ideologically opposed to joining a trust. In these circumstances, we do not believe the local authority should be prevented from completing the move to a fully trust-based system.

Amendments 34, 37 and 38 are concerned with the nature and timing of consultation over academy conversions. The Bill already includes requirements designed to ensure that proper consultation takes place, while giving local authorities the flexibility to design the consultation process in a way that responds to local circumstances. In particular, the Bill already includes an explicit requirement for local authorities to consult with the governing body and, if the school is a voluntary or foundation school, other interested parties before applying for an academy order. The local authority may also consult more widely at that point. The department's statutory guidance on governance makes clear that governing bodies as a whole should take responsibility for understanding what parents and staff think. However, we do not think it is necessary to impose specific consultation duties on local authorities, or to prioritise the interests of particular groups in legislation. Moving to a fully trust-based system is a long-term, strategic decision with implications for a range of stakeholders beyond parents and staff in individual schools at a particular time.

On the timing of consultation, we believe it is important that local authorities engage with the school community at all stages of preparing and submitting their application for academy orders. There may be circumstances, however, where important information regarding school conversion comes to light after an application has been made. This could include a change relating to the intended trust a school should join, for example. It is important that local authorities consult on important issues, even if an application has already been submitted. As it stands, the clause gives local authorities the flexibility to consult on important issues throughout the process.

I turn now to Amendment 41, in the name of the noble Baroness, Lady Blower, and Amendment 42, in the name of the noble Duke, the Duke of Wellington. In Committee, I committed to considering the scope for clarifying the arrangements for engaging with stakeholders when a stand-alone academy joins a multi-academy trust as part of the regulatory and commissioning review. As I mentioned earlier, I have since placed the terms of reference for the review in the Library of the House.

The noble Lord, Lord Hunt, suggested that there needs to be more openness in the criteria used by the department when moving a single-academy trust into a multi-academy trust. I am happy to share the criteria used, since they are publicly available for everybody to see—I cannot remember whether I mentioned that in an earlier debate—and rightly so. The department shares the noble Lord's view on that.

I have also written to all Members of the House to make it clear that it is not the Government's policy to force stand-alone academies to join multi-academy trusts if they are performing satisfactorily and being managed properly. As part of our reflection on Clauses 1 to 4, we will consider whether anything needs to be done to ensure that the Bill reflects this policy intention. I hope that might reassure the noble Duke, the Duke of Wellington, to some extent.

However, I reiterate that the Government encourage maths schools and schools with specialisms to consider forming or joining a MAT. We believe that, as your

Lordships talked about extensively during debates on the Bill, schools have an incredible role to play in their communities and that families of schools, which exist both in the maintained sector and in the form of multi-academy trusts, can share some of the specialisms, innovations and strengths of different schools in those families with others. My challenge on this point about specialisms is this: why would you not want to share some of the expertise from a single school with several hundred children with several thousand children? As my noble friend Lord Baker knows, I think I am right in saying that around 70% of UTCs are in multi-academy trusts and have absolutely had their specialisms respected.

I turn to Amendments 44 and 45 in the names of the noble Baronesses, Lady Chapman and Lady Wilcox, on qualified teacher status. Amendment 44 would restrict the current flexibility of school leaders in academies to recruit unqualified teachers. In fact, it goes further than the restrictions currently imposed on maintained schools via the Education Act 2002 around employing teachers without qualified teacher status.

As the House knows, most schools choose to employ teachers who have undertaken initial teacher training and gained QTS. The latest school workforce census data showed that 96.9% of teachers in academy schools held QTS status in November 2021, compared to 98% in local authority-maintained schools. I am interested that the noble Baroness feels the 1% difference is so material. We know that unqualified teachers can play a valuable role, particularly where they bring specialist skills and knowledge into schools, although I absolutely respect the points the noble Baroness made on pedagogy and curriculum planning. It is not our intention to use this Bill to restrict the freedoms that enable academy trusts to collaborate, innovate and organise themselves to deliver the best outcomes for pupils.

On Amendment 45, Ofsted already provides independent judgment on the educational performance of schools within a trust and, as the noble Baroness referenced, through the MAT summary evaluations. These draw on inspections of individual academies and meetings with trust leaders to review how well they are delivering high-quality education and raising standards for pupils. The review of regulation and commissioning will include consideration of whether trust-level inspection is needed and, if so, how it would support the wider regulatory arrangements and how it would interact with school-level inspection.

MAT inspection is complex. We do not want simply to overlay a new level of inspection without looking at the whole picture, including how MAT-level inspection relates to inspection at school level. To do this, we are taking the time to engage and consult with the sector.

I hope your Lordships will agree that it is important that the review runs its course before we make any decisions about legislation in this area. I therefore ask the noble Lord, Lord Storey, to withdraw his amendment and other noble Lords not to press theirs.

Lord Storey (LD): I thank the Minister for her response. It is refreshing to have a Minister who listens and who is open-minded about issues and tries to resolve them. I had intended to push Amendment 10 to a vote, but that would be churlish given the Minister's offer. I respect her for making it; it is the best way forward. As the right reverend Prelate the Bishop of Durham said, it is important to get this right so that schools in multi-academy trusts that are not based in that locality can relate to a local community. I hope she might provide me with the opportunity to talk to her about some of the ideas we may have. I also very much support the important amendment from the noble Duke, the Duke of Wellington. I beg leave to withdraw my amendment.

Amendment 10 withdrawn.

Clause 5: Power to give compliance directions

Amendment 11

Moved by ***Lord Baker of Dorking***

11: Leave out Clause 5

Amendment 11 agreed.

Clause 6: Power to give notice to improve

Amendment 12

Moved by ***Lord Nash***

12: Leave out Clause 6

Amendment 12 agreed.

Clause 7: Powers to appoint or require appointment of directors

Amendment 13

Moved by ***Lord Baker of Dorking***

13: Leave out Clause 7

Amendment 13 agreed.

Schedule 2: Academy proprietors: interim trustees

Amendment 14

Moved by ***Baroness Barran***

14: Leave out Schedule 2

Member's explanatory statement

This amendment, which would leave out Schedule 2 (interim trustees), is consequential on the removal of clause 7.

Amendment 14 agreed.

Clause 8: Termination of Academy agreement with seven years' notice

Amendment 15

Moved by ***Lord Baker of Dorking***

15: Leave out Clause 8

Amendment 15 agreed.

Clause 9: Termination of Academy agreement where Academy is failing

Amendment 16

Moved by ***Lord Baker of Dorking***

16: Leave out Clause 9

Amendment 16 agreed.

Clause 10: Termination of Academy agreement in cases of insolvency

Amendment 17

Moved by ***Lord Baker of Dorking***

17: Leave out Clause 10

Amendment 17 agreed.

Clause 11: Termination of master agreement on change of control or insolvency event

Amendment 18

Moved by ***Lord Baker of Dorking***

18: Leave out Clause 11

Amendment 18 agreed.

Clause 12: Termination of Academy agreement or master agreement after failure to address concerns

Amendment 19

Moved by ***Lord Baker of Dorking***

19: Leave out Clause 12

Amendment 19 agreed.

Clause 13: Termination of Academy agreement or master agreement after warning notice

Amendment 20

Moved by ***Lord Baker of Dorking***

20: Leave out Clause 13

Amendment 20 agreed.

Clause 14: Termination warning notices: Academy agreements

Amendment 21

Moved by ***Lord Baker of Dorking***

21: Leave out Clause 14

Amendment 21 agreed.

Clause 15: Termination warning notices: master agreements

Amendment 22

Moved by ***Lord Baker of Dorking***

22: Leave out Clause 15

Amendment 22 agreed.

Clause 16: Termination of Academy agreement after termination of master agreement

Amendment 23

Moved by ***Lord Baker of Dorking***

23: Leave out Clause 16

Amendment 23 agreed.

Clause 17: Termination: contractual provisions and other rights

Amendment 24

Moved by ***Lord Baker of Dorking***

24: Leave out Clause 17

Amendment 24 agreed.

Clause 18: Termination: consequential amendments

Amendment 25

Moved by ***Lord Baker of Dorking***

25: Leave out Clause 18

Amendment 25 agreed.

Clause 20: Power to make regulations about governance

Amendment 26

Moved by ***Baroness Penn***

26: Clause 20, page 14, line 32, leave out from beginning to "provision" in line 33 and insert—

"(A1) The Secretary of State must make regulations in relation to Academy schools with a religious character for one or both of the following purposes—

(a) securing, so far as practicable, that the character of each such Academy school in a relevant Academy proprietor's care reflects the tenets of its designated religion or religious denomination;

(b) securing, so far as practicable, that each such Academy school in a relevant Academy proprietor's care is conducted in accordance with any trust deed relating to the school.

(1) The regulations must specify—"

Member's explanatory statement

This amendment would change the power in clause 20 to make regulations about the governance of schools with a religious character into a duty to do so. It also makes it clear that the regulations may be for either or both of the purposes mentioned.

Baroness Penn (Con): My Lords, the amendments in this group primarily relate to schools with a religious character, along with an amendment regarding religion and worldview education for academy schools without a religious character. I will speak to the amendments regarding schools with a religious character first.

I thank the right reverend Prelates the Bishops of Durham and Chichester for their support in Committee. We have listened to the concerns and suggestions raised by them and other noble Lords on schools with

a religious character. These amendments adopt similar principles to the amendments proposed by the right reverend Prelate the Bishop of Durham in Committee.

6 pm

I turn first to Amendment 26 and to Amendments 27, 28 and 29, which are consequential to it. The Government heard the concerns raised about the contrast between the requirement to make regulations in Clause 19 and the power to make regulations in Clause 20. Amendment 26 would create a legal requirement on the Secretary of State to make regulations under Clause 20, just like in Clause 19. In making regulations under this power, the Government will also hold a consultation with religious bodies, and other interested parties, to inform the content of the final regulations. I hope that these amendments provide reassurance to noble Lords that the governance of all schools with a religious character will be appropriately safeguarded.

Amendments 39 and 35 relate to academy orders, which is where certain bodies may apply to the Secretary of State to convert maintained schools into academies. Amendment 39 would add a new section to the Academies Act 2010 which creates an additional circumstance in which an application for an academy order may be made to the Secretary of State. This amendment gives a power for key bodies involved in the governance of maintained schools with a religious character, such as dioceses and other religious bodies, to apply for an academy order for some or all of their maintained schools. The Church and religious bodies are our partners in education, and we intend for this amendment to help dioceses and other religious bodies manage conversion of their maintained schools in a strategic way, ensuring none is left behind and all can experience the benefits of being in a strong trust. This includes the high number of small schools, often in rural communities, many of which are schools with a religious character.

It may be helpful to give noble Lords more detail on the scope of bodies who will be able to apply for an academy order under this amendment. We are extending the power to apply for an academy order further than just the "appropriate religious body". This is because, in a limited number of schools, the key body who is best placed to apply for an academy order on behalf of several schools with a religious character may not be the appropriate religious body. Instead, it is either the trustees of the school or the persons who appoint foundation governors. By ensuring that these three categories of body can apply for an academy order for their schools with a religious designation, we ensure that the power works for all faiths and all schools with a religious character.

Amendments 36, 40, and 61 are associated amendments. Broadly, they are consequential amendments which ensure that the two powers to apply for academy orders would work with existing provisions regarding academy orders in the Academies Act 2010.

Amendment 35 adds the "appropriate religious body" to the list of bodies or persons that must consent to a local authority's application for an academy order for a maintained school in its area that is designated with a religious character. The amendment requires a local authority that is intending to apply for an academy order for a maintained school with a religious character to obtain the consent of the appropriate religious body before submitting an application relating to that school to the Secretary of State. The amendment recognises the existing non-statutory requirement for religious bodies to provide their consent before any of their designated maintained schools can become academies. The amendment ensures that the requirement is properly reflected in Clause 29.

I note that Amendment 30 is tabled in the name of the noble Baroness, Lady Meacher, and will respond to it in my closing speech so I can hear the arguments that she puts forth first. For now, I beg to move.

Baroness Meacher (CB): My Lords, I shall speak to Amendment 30 in this group. I thank the noble Lord, Lord Mendelsohn, and the noble Baroness, Lady Whitaker, for adding their names to the amendment, and I also thank the right reverend Prelate the Bishop of Durham for our very helpful discussion on it.

The aim of the amendment is to make it explicit that religious education in schools which are not faith schools or academies must be inclusive. That is to say RE must include worldviews, including a number of different religions and non-religious values. Just because one does not believe in a metaphysical god, it is absolutely vital that we do not then lose Christian values. For me, as somebody who does not have a religion, I believe passionately that Christian values should be taught in schools on the basis that, if you do not believe in a metaphysical god, then you have to consider that you must support these values and find some rationale for doing so. I am very conscious of the Action for Happiness movement and the world well-being movement, and that is all about loving your neighbour as yourself and treating others as you would wish them to treat you. If we lose those fundamental values simply because more than 50% of the population now do not have a religion—and that number seems to grow every year—we will be in trouble as a society. So I think this amendment is very important: we need to hang on to Christian values.

As I said in my discussion with the right reverend Prelate, a key phrase in the amendment, which applies only to schools without a religious character, is that it requires the new subject to reflect the fact that the religious traditions in Great Britain are, in the main, Christian, so it is those values that we would be wanting to hang on to.

The amendment is in line with the recommendations of the 2018 report of the Commission on Religious Education, convened by the Religious Education Council for England and Wales. The commission's members included 14 experts from different fields and various religions and beliefs, and of course it was chaired by the very reverend Dr John Hall, Dean of Westminster and former chief education officer of the Church of England.

I emphasise that this amendment makes no attempt to affect religious teaching in faith schools. The changes reflected in this amendment—that the subject should include humanism and be objective, critical, and pluralistic—have been the policy of both the Religious Education Council for England and Wales and the

[Baroness Meacher]
National Association of Teachers of Religious Education. In other words, this is the amendment that the RE profession actually wants; there is nothing revolutionary or odd about it.

Indeed, a recent government statement—which I was hoping to read out, but I cannot track it down on my phone—includes exactly the same principles and ideas in this amendment. So I would hope that the Government would have no problem at all in accepting this amendment; this is government policy according to the Government's updated statement on RE teaching.

I know that the Minister will also want to take note of two important legal cases on RE, which have concluded that a narrow RE curriculum breaches the human rights of the non-religious. The 2015 judgment R (Fox) v Secretary of State for Education was a landmark decision, which requires the subject to be inclusive of humanism and to be objective, critical, and pluralistic, in order to comply with human rights under Article 9 of the European convention regarding freedom of thought, conscience and religion.

Following that judgment, the Welsh Government introduced the Curriculum and Assessment (Wales) Act 2021, which ensures that RE will be inclusive in these ways in Wales. All this amendment is doing is to ensure that education law in England is in line with the two legal cases and developments in Wales; surely, we do not want to be left behind by Wales.

I should refer to the specifics of the Worcestershire case of June and July 2022, because this has not yet been publicised so noble Lords will not be aware of it. An academy school which did not have a religious character had a narrow curriculum for its GCSE RE course. Following pre-action letters from a humanist parent citing discrimination on human rights grounds, the school agreed to provide RE inclusive of non-religious worldviews, such as humanism, for all pupils in years 10 and 11.

In conclusion, the Bill already clarifies issues in relation to RE for faith schools, so we are not touching on that at all. We know that a number of non-faith schools already provide inclusive RE and worldviews, but this amendment aims to provide clarity for all academy schools which are not faith schools.

Baroness Whitaker (Lab): My Lords, I am very happy to support the amendment so clearly set out by the noble Baroness, Lady Meacher. I too am heartened by the knowledge that the Religious Education Council for England and Wales supports the amendment and that it fits evolving case law.

I can, in fact, put my finger on the text that the noble Baroness referred to. Our Government very recently signed up to an international conference of Ministers, saying, in terms:

"We recognise the importance, at all levels of education, of promoting respect for human rights, including freedom of religion or belief, and pluralistic and peaceful societies, where all people are equally respected, regardless of religion, ethnicity, gender, disability status or other characteristics."

They said that they commit to promoting "inclusive curricula" and that

"curricula should provide positive and accurate information about different faith and belief communities and combat negative stereotypes".

They also committed to

"promoting … efforts to support education reform, emphasising the benefits of pluralism and the importance of human rights, including freedom of religion or belief."

It is a great step forward that our Government have committed to that text. Of course, it does no more than reflect the evolution of our diverse society, so I am sure that the Government will lose none of their positions in accepting this amendment.

The Lord Bishop of Durham: My Lords, I rise to speak to all the amendments in this group, and in doing so declare my interest as chair of the National Society. Turning first to Amendments 26, 27, 28 and 29, I am extremely grateful to the Minister, again, for her continued work with us on these important issues. It is no comment on the noble Baroness, Lady Penn, but the noble Baroness, Lady Barran, and the team have been particularly helpful, and it has been a fruitful ongoing conversation. The partnership between the Church of England and the Department for Education is greatly valued and a significant strength in the sector of education. This is seen in the way we work at national, regional and local level and through the outworking, for example, of the 2016 memorandum of understanding between the Department for Education and the National Society—I should add that our friends and colleagues in the Roman Catholic Church express the same thanks—which is an important recognition of the need for continued partnership in order for us to serve 1 million children through Church of England schools.

Some concerns have been raised about the protections and guarantees given to academies with a religious character, and the Church welcomes the clarity and assurance the Government have given about the scope of regulations in this regard. It moves us from a contractual to a statutory footing better to safeguard the distinctive Christian character and ethos of our family of Church schools. Such regulations will need to secure the religious character of our schools through, for example, good models of governance, and we look forward to working with the department as those regulations are produced. The Government's commitment to ensure the transfer of provisions for RE and collective worship currently set out in maintained legislation to the academy sector are to be commended, so I welcome this amendment, which helps to clarify the purposes for which the regulations are made and secures a duty to make those regulations. In Committee, the Minister responded to my amendment by giving assurances that regulations would be made under Clause 20, and we are grateful to her for acting in this way.

Turning to Amendment 30, it was good to be able to talk to the noble Baroness, Lady Meacher, but I know that I have disappointed her in not feeling able at this stage to support it in its current form. This amendment relates to religious education in academies without a religious character—I fully accept that it has no impact at all on Church or other faith schools—which I am sure we are all agreed is an important topic if we are to enable our young people to play an active role in a world where faith and world views are so important. RE must be safeguarded in all our schools. However, as the noble Baroness, Lady Meacher, pointed out, the Commission on Religious Education's report pushed

in this direction. Progress has been made since then within the RE community through the work of the Religious Education Council, which has not yet concluded. We are confident that we are moving towards a consensus about the future of the RE curriculum in all schools, and I fear that if we do not wait for that consensus, the danger is that we will pursue an amendment that fixes something unhelpful. It is purely a matter of timing that we disagree on, rather than the direction, I think. It is very important that the content of the RE curriculum in schools with a non-religious character be given attention, but I think it is better to wait for consensus about that content to be reached before mandating it in this way.

6.15 pm

Turning next to Amendments 35 and 36, I welcome Amendment 35 and its consequential amendment which would require a local authority to gain the consent of the appropriate religious body before applying for an academy order for a maintained school in its area with a religious character. The clause this amendment relates to required consent from the governor-appointing body and from trustees, but this inadvertently excluded many C of E diocesan boards of education from the requirement to give consent to the academy order of a school for which it is the religious authority. This was an unfortunate omission of a principle that Parliament has demonstrated its acceptance of in passing the Diocesan Boards of Education Measure 2021, which explicitly requires the consent of a DBE before a governing body can seek an academy order. We therefore thank the Government for bringing forward these amendments, which address this detail, make sure that the two laws agree and ensure that DBEs are functioning effectively within the academising system.

Finally, we welcome Amendment 39 and its consequential amendment. The creation of strong diocesan MATs that are sustainable is key in moving towards a fully trust-led system. Because Church of England schools are largely small and rural, the size of trusts may need flexibility, and they may need to be larger to be viable. Because they are a confined geographical area, dioceses are best placed to understand in each local context how to measure flourishing across pupils, staff and the whole trust community. This clause enables them, with the regional directors for the DfE, to utilise their understanding of the distinct communities they serve proactively to shape the future school system in each locality. This is especially important properly to account for the variability of C of E schools and ensure that they can move en masse to a fully trust-led system. In light of our previous debate on local issues, I reflect to the Minister that it might be worth exploring what happens within the Church school sector in order to explore the local accountability issues that were raised earlier. We also thank the Minister for introducing Amendment 61, another necessary consequential amendment to define the "appropriate religious authority".

I end simply by reiterating our deep thanks to the department's staff and the Minister for the careful and warm collaboration we have had on these amendments.

Lord Murphy of Torfaen (Lab): My Lords, I rise to support the right reverend Prelate in everything he has said. He will recall that in Committee, I supported him in the change to the governance of academies in the context of faith schools. I am grateful to the Minister—although she is engaged in other matters at the moment—and the Government for agreeing to make this amendment. I think it is sensible and I am glad that the Government have agreed to it, but I have to say that I cannot support Amendment 30 in the name of the noble Baroness, Lady Meacher. Incidentally, I understand much of what she said, and I have a great deal of respect for her. She quite rightly referred to the fact that you do not have to be Christian in order to have Christian values and ensure that they form the basis of a moral education for young people. Of course, that is why there are very many faith schools in our country which are attended by people of other faiths and sometimes no faith at all: because they want that sort of moral education. That is one of the great values of our faith schools in this country.

This is not about faith schools; it is about academies —we do not have them in Wales, by the way, but we supported them as a Labour Government. We have talked much about Wales. As a former Secretary of State for Wales myself, I am very grateful to the Minister for saying how we lead the way in many respects, but I do not agree on this one, for two reasons.

First, the right reverent Prelate the Bishop of Durham referred to the fact that there is still more work to be done with regard to religious education, so let us await the result of that work. Secondly, I have studied the amendment very carefully, and it is about religious education—or is it? I assume that, in England, it is still a requirement for state schools to teach religious education, so that is what they must teach.

The nature of that teaching has changed dramatically since I was at school. When I was a young Catholic in a state school, I had to file out of assembly because I was not allowed to take part in what was regarded as a Protestant assembly in the school. I was not allowed to go to RE lessons because I was a Catholic and the lessons were Protestant. Happily, and thank the Lord, that has all changed. Under my own Church, after Vatican II, not only did I attend all those things but I read the lesson in the assembly.

The world has changed and there is no question but that, over the past 30, 40 or 50 years, the teaching of other faiths in religious education has increased—and rightly so. If you live in an area of England that is dominated by people of other faiths, of course you teach those faiths—it is about religion. If you have to teach non-religious things, call it something else—it is not religion.

If it comes to a vote, I will not support the amendment, but I understand the ideas behind it. I think the most significant thing is what the right reverend Prelate said: let us wait for the experts who teach RE to tell us what they think is best. But let us not do away with religious education, as we believe it is, at this important point in our history.

Lord Mann (Non-Afl): My Lords, I feel obliged to make a few comments on the question of what is and what is not religious education.

On Amendment 30 and the discussion of other religions, is the teaching of Judaism regarded as religious education or civics? I declare an interest as on the

[LORD MANN]
register as a trustee of a multi-academy trust. A major piece of work is already under way looking at how contemporary Jewish life could, in a very minimal but important way, be put into the curriculum of every school, and how contemporary anti-Semitism could be more than touched on and built into teaching in a timewise, modest way. That could be defined as a discussion of Judaism and classified as religious education.

From my perspective, in a sense, that does not matter. What matters is that somewhere within all secondary schools in the country, pupils get a glimpse of another community and its life, our history with the Jewish community—which has not been the proudest over the past 1,000 years—and some feeling and understanding of what it is like to be Jewish in this country.

I do not have a specific view on whether the amendment would work or not. The spirit of it is very interesting and useful. There is a challenge there and the more debate and discussion we have on the challenge of how other faiths, communities or both are fed into the school curriculum in this small but important way is vital to faith communities, education and the country.

Lord Storey (LD): My Lords, I ought to declare an interest as a former head teacher of a Church of England school. We live in a multicultural, multifaith community, and we make that successful by respecting each and every one of us. I shall come back to that in a moment.

We on these Benches support Amendment 30. I agree with the noble Baroness, Lady Meacher, that you do not have to be a Christian to believe in Christian values, but the values of other faiths are also important. For example, my daughter went to a Jewish school, where she learned many values which were not, initially, her understanding. Because that Jewish school admitted children from different faiths, at 28 she still has lifelong friends from a whole range of different faiths: Muslim, Jewish, Christian and Hindu. She seems to constantly go to Hindu weddings for some reason.

I have a question for the Minister to which she might not know the answer, so perhaps she could respond in writing. I understood that we had SACREs, Standing Advisory Committees on Religious Education; each local authority had to establish a SACRE, which determined the religious syllabus for the schools in its district or city. I do not know how that works now. I was the chair of a SACRE for a couple of years, a long time ago. I do not know how that relates to the previous debate on academies, current religious education in schools or the amendment. If we agree to this amendment, which I hope we do, how does a SACRE get involved? Can it say that it is not in favour of doing this or that? If the Minister does not know or cannot get those in the Box to tell her, perhaps she could write to me. That would be very helpful.

The right reverend Prelate the Bishop of Durham said that RE must be safeguarded in all our schools, and here is the problem. The problem is not religious education; it is the quality of its teaching. I have been in non-faith schools and been appalled at how religious education is taught. Nobody is qualified—it can be the person who is least qualified who does it and, frankly, it would be better not to do it.

I was always a great believer in school assemblies. The law of the land said—I think it was under the Blair Government—that every school had to have a daily act of collective worship. I do not think that happens in most non-aided schools. At one stage, Ofsted used to report if it was not happening. A school assembly can be a wonderful way to celebrate people of faith or no faith—it can bring the school community together. But some schools just go through the motions and try to squeeze 500 pupils into a hall to tick the box that they have had an assembly. Frankly, I would rather that they did not do it than try to fulfil the letter of the law.

I hope the Minister will look kindly on this amendment, because it is very important. On the comments of the right reverend Prelate the Bishop of Durham, if we agree the amendment, it does not prevent those discussions taking place.

6.30 pm

Baroness Wilcox of Newport (Lab): I have several things in common with the noble Lord, Lord Storey. One is that I also chaired the SACRE in Newport; the other is our teaching careers.

The aim of Amendment 30 is to ensure that cultural education is balanced and non-exclusionary. In a modern society where children are exposed to all kinds of views, particularly online, it could provide an opportunity to discuss a variety of topics and issues. I recognise that a variety of opinions have been expressed, not least by the right reverend Prelate the Bishop of Durham and my noble friend Lord Murphy. How can I possibly not defer to the former Secretary of State for Wales? As the noble Baroness, Lady Meacher, pointed out, the laws on religious education have been reformed recently in Wales. It has seen an explicit reference to "philosophical beliefs" included and a change from "religious education" to "religion, values and ethics", with the removal of the parental opt-out. With all that in mind, I look forward to hearing the Minister's response on these issues.

Baroness Penn (Con): My Lords, I thank noble Lords for their contributions to this debate. I also reiterate the Government's thanks to the right reverend Prelate, on behalf of my noble friend, for his constructive work with the department to ensure that we get these issues right in the Bill and achieve the shared aim that we all seek.

As the noble Baroness, Lady Meacher, set out, Amendment 30 in her name seeks to add to the Bill a duty on academy schools without a religious designation to teach religion and worldviews. The amendment also provides that this teaching must be objective, critical and pluralistic. The Government believe that this amendment is unnecessary because it places into primary legislation what is already in academy trusts' funding agreements about teaching religious education. As my noble friend Lady Barran has set out, over the summer we will undertake the necessary policy work and engagement with the sector to bring back revised clauses on academy standards, as well as the intervention and termination provisions. To achieve this, the regulatory and commissioning review that we launched on 29 June

will consider, alongside other matters, academy trust regulation as we move towards a fully trust-led system. It is through those clauses that we will seek both to establish the principles on which academy standards will be based and to ensure that any powers sought provide a more clearly defined and constrained regulatory approach.

By contrast, this amendment would introduce a new requirement on academies to teach worldviews and dictate the nature of the religious education curriculum. We have been clear that, although that work is being undertaken, the aim none the less is for the first set of standards regulations largely to consolidate existing requirements on academies, not place more burdens on them or interfere with their freedoms. This amendment would do both.

However, I assure the noble Baroness, Lady Meacher, the noble Lord, Lord Storey, and others that worldviews can already be taught as part of religious education. Indeed, on SACRE, to which he referred, the policy remains that academies and agreed syllabus conferences—I think we are talking about the same thing there—are the places that currently propose locally agreed syllabuses for RE in maintained schools; academies have their own process. The Government believe that they should be free to determine their own approach to the teaching of RE.

I say to the noble Lord, Lord Mann, that, as I said, existing provisions already allow worldviews to be taught as part of religious education. They also allow for other religions to be taught in maintained schools, not just Christian views. There are also other opportunities in the curriculum—for example, through PHSE lessons—for what he is looking for. The Government believe that schools already have flexibility to determine the curriculum that they think appropriate. They also have an explicit flexibility that can include non-religious worldviews as well as religious ones. Therefore, we do not think that there is any need to specify that further in the Bill; indeed, doing so would contradict our approach on earlier parts of the Bill in terms of going away, looking at academy standards and consulting the sector over the summer.

However, I should say to the noble Baroness, Lady Meacher, that, as I said before, our intention is for those standards to replicate in the first instance existing standards, which would not then change RE by widening it explicitly to include worldviews—although that is already provided for. It would also not specify the nature of how RE should be taught, which we think is best determined at the local level.

I hope that I have addressed the noble Baroness's points. I know that I will have disappointed her but I will wait to hear whether she wants to move her amendment when it is reached.

Amendment 26 agreed.

Amendments 27 to 29

Moved by ***Baroness Penn***

27: Clause 20, page 14, line 39, leave out "that may be"

Member's explanatory statement

This amendment is consequential on the amendment in Baroness Barran's name at clause 20, page 14, line 32.

28: Clause 20, page 14, line 40, leave out "includes" and insert "may include"

Member's explanatory statement

This amendment is consequential on the amendment in Baroness Barran's name at clause 20, page 14, line 32.

29: Clause 20, page 15, line 27, leave out subsection (4)

Member's explanatory statement

This amendment is consequential on the amendment in Baroness Barran's name at clause 20, page 14, line 32.

Amendments 27 to 29 agreed.

Amendment 30

Moved by ***Baroness Meacher***

30: After Clause 27, insert the following new Clause—

"Religion and worldviews education

(1) The proprietor of an Academy school without a religious character must exercise its functions with a view to securing, and its principal must secure, that religion and worldviews education is provided to all pupils at the school.

(2) The religion and worldviews education required under this section must—

(a) reflect the fact that the religious traditions in Great Britain are in the main Christian,

(b) take account of the teachings of the other principal religions and non-religious beliefs represented in Great Britain, and the beliefs and practices of their adherents, and

(c) be designed and taught in a manner that is objective, critical and pluralistic.

(3) In subsection (2)(b), the reference to non-religious beliefs is to explicitly non-religious philosophical convictions, within the meaning of Article 2 of the First Protocol to the European Convention on Human Rights, that are analogous to religions.

(4) In this section, "the European Convention on Human Rights" means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4 November 1950, as it has effect for the time being in relation to the United Kingdom, and "the First Protocol", in relation to that Convention, means the protocol to the Convention agreed at Paris on 20 March 1952.

(5) A provision of an Academy agreement or master agreement (including an agreement entered into before this section comes into force) is void so far as it is inconsistent with any provision made by or under this section."

Member's explanatory statement

This replaces religious education in Academies without a religious character with religion and worldviews, which is explicitly inclusive of non-religious beliefs and is explicitly required to be objective, critical and pluralistic.

Baroness Meacher (CB): My Lords, I thank all noble Lords who have spoken in this debate. I particularly thank the noble Lord, Lord Storey, and the Liberal Democrat Benches for their support. I am aware that the Labour Party is having a free vote on this amendment—out of respect for its Catholic members, perhaps. I very much thank the right reverend Prelate the Bishop of Durham for his comments and for noting the fact that our only differences are those of

[Baroness Meacher]
timing. Bearing in mind the amount of time that legislation takes, if we miss this opportunity in the Bill, it will be many years before we have another one to recognise that schools that do not teach religion and worldviews are breaching human rights. We have legal cases that make this very clear and we have the example of Wales, which has put things right. I feel obliged to test the opinion of the House.

6.38 pm

Division on Amendment 30

Contents 82; Not-Contents 145.

Amendment 30 disagreed.

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6.50 pm

Clause 28: Academy grammar schools

Amendment 31

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

31: Clause 28, page 21, line 19, at end insert—

"(2A) In section 105 (procedure for deciding whether grammar schools should retain selective admission arrangements) after subsection (9) insert—

"(9A) Ballot regulations must provide for the ballot, the petition in subsection (3)(a), the registration of parents in subsection (4)(a) and connected purposes to use electronic communications alongside other forms of communications.""

Member's explanatory statement

This amendment would make it so that the petition calling for a ballot, the registration of parents to participate in the ballot and the ballot itself can be carried out using electronic communications.

Lord Hunt of Kings Heath (Lab): My Lords, I return to the subject of grammar schools with two modest amendments, which I am sure the noble Baroness will wish to accept. I have always taken particular interest in grammar schools, having been brought up in an environment of selective education. This was compounded by direct experience of the failure of the Buckinghamshire education system through my eldest daughter, who had the misfortune to be living there for her secondary education and attending a secondary modern school. More generally, I recoil still at a system which essentially labels the majority of 11 year-olds as failures.

The move against grammar schools was supported hugely by parents when it happened. I was genuinely concerned when I saw Sir Graham Brady MP recently suggesting that, when this Bill goes back to the Commons, it should be amended to remove the statutory ban on new selective schools. We know he has received support from other Conservative Members of Parliament. I say to the Minister that if the Bill comes back amended in that way, we will fight it tooth and nail in your Lordships' House, and will expect at least a day to debate it.

My two amendments are very modest and address issues relating to the 1998 legislation. It was introduced in good faith but, as time goes on, one sees that it needs to be improved, and this is what I am seeking to do here. I have some experience in this. In Birmingham, the local authority where I live, my wife was a leading member of the campaign to use the legislation to allow a ballot to remove selection from the eight grammar schools in the city. She and others discovered that, under the legislation, only parents in primary schools which have sent five or more children to grammar schools in the last three consecutive years were allowed to vote, thus denying parents in other schools the franchise.

Of course, the schools denied the franchise were predominantly schools with higher levels of free school meals, and those that got the franchise were in the most prosperous neighbourhoods. That is not surprising, as data shows that it is predominately middle-class children, whose parents have the money to pay for private tuition, who pass the grammar school exam. This is not a meritocracy, as is sometimes claimed by Conservative MPs, but a bought privilege for those with money.

In my two amendments, I first want to reduce the 20% of qualifying voters to 10%. That is the same as is required for the recall of an MP. It is not unreasonable to set the level there. When the legislation was introduced in 1998, we were run on paper as a country; we know the world has changed. So secondly, I am suggesting that we allow electronic communications in relation to regulations. I know from the meeting I had with the Minister this morning that, because of the academy grammar schools, there will be new regulations. I ask that this be considered as part of the revision of those regulations.

My other two amendments in this group, Amendments 102 and 103, are on a completely different matter. They are about strengthening the rights of parents and increasing the public accountability of schools. Given the development of the admissions system around academies, instead of what previously was a unified system where the local authority provided all the information and you went through the local authority system, a parent can often be faced with a multitude of applications to academies in their area. It can be very confusing. I propose a straightforward extension to the existing remit of the Local Government and Social Care Ombudsman. I want to enable parents to seek an independent investigation into complaints about admissions to academies if they think their child has been wrongly denied access to their preferred choice of school. The other amendment proposes an equally practical, but perhaps even more important, extension to the rights of parents: the right to complain about what goes on within the school itself.

In Committee, the noble Baroness, Lady Barran, in response raised five points to justify rejecting those amendments: that there was a route for complaints through the independent Office of the Schools Adjudicator; that the School Admissions Code has improved the process for managing in-year admissions; that the Government will consult on a new statutory framework for pupil movements between schools and a back-up power to enable local authorities to direct an academy trust to admit a child; that every academy trust must have a published complaints procedure; and, finally, that her department provides a route for independent consideration of complaints about maladministration of appeals in relation to academy schools.

I am very grateful for the Minister's full response but it does not go far enough. For instance, the Office of the Schools Adjudicator does not make decisions on individual complaints about the admissions appeal process. On the School Admissions Code, although the changes that were made are welcome, they do not in any way address the lack of independent redress for school admissions for academies and free schools or the underlying fragmentation of the admissions complaints system for parents. On the new statutory framework for pupil movements between schools, I would just say that powers of direction are not a substitute for parental access to an independent appeals and complaints process. Finally, on complaints directly to her department, my understanding is that her department focuses on whether a school has followed the complaints process, rather than carrying out a fresh investigation into the substantive matter complained about. I hope that the Minister will give some consideration to that.

All schools are going to become academies. The Minister's previous arguments about wishing to maintain the freedom of academies has to be balanced with a proper accountability system. I wonder whether the review she is chairing might look at this. It seems to me that one key element of allowing academies to continue

[LORD HUNT OF KINGS HEATH]
to have the freedoms that they enjoy is that there are some safeguards in the system. I would argue that having the Local Government Ombudsman as a backdrop would be one of the building blocks to allowing academies to continue to have their freedoms.

Having said that, I hope we can give these and other amendments a fair wind. I beg to move.

Lord Shipley (LD): My Lords, my name appears on Amendments 47 and 106. I want briefly to say that I am very strongly in favour of all the points made by the noble Lord, Lord Hunt of Kings Heath. Amendment 46, in particular, is very powerful, and I hope the Minister will think carefully about it.

I turn first to Amendment 47, which relates to the provision of school places by academies. There is a problem here which needs to be solved before it arises. Local authorities in England must have a power to direct academies in their area to admit individual pupils and to expand school places. As I said in Committee, the question that arises is around what happens when there are not enough school places for a local authority to fulfil its statutory duty—for example, if there is a new housing estate and school places have to be found for the children living there. Given that local authorities should in my view have some power over appeals, local authorities must have the power to be more directional than the Bill currently permits.

7 pm

Amendment 106 seeks to define the local authority's strategic educational functions that we think should apply. It is similar to the amendment we raised in Committee, and I do not want to go back through all that. I say simply that, if I were a parent looking at the Bill, I would expect my local authority to undertake the functions defined in Amendment 106, which seeks to add a new clause after Clause 67. It seems there are functions for a local authority to ensure that every child of compulsory school age living in the local authority area has a school place, to co-ordinate provision of education to children who are at risk of exclusion from school, to co-ordinate the provision of support to children with special educational needs or disabilities and, as I referred to a moment ago, to co-ordinate the appeals process.

There are other functions clearly shown in Amendment 106, but this issue of local authority powers is not going away. It is not just about powers; it is about responsibilities and the expectations of people who live in local authority areas. They will not understand why powers have been taken from their local authority. I am very supportive of all the amendments in this group and I hope the Minister is prepared to say some helpful things when she sums up.

Baroness Chapman of Darlington (Lab): My Lords, I congratulate my noble friend Lord Hunt on his Amendments 31 and 32. He explained them very well, so I will not delay the House by repeating what he said. He made some sensible suggestions, born out of experience, and it would be good if we could explore these ideas further. I hope that, when the Bill comes back in the autumn or early next year, the amendments we may see on grammar schools are more in line with those tabled by my noble friend Lord Hunt than those that Sir Graham Brady seems to support in the other place.

We have tabled amendments concerning the handling of complaints too. They could be considered part of the process over the summer. Our Amendment 47 would give local authorities power over aspects of admissions, which is very important in a wholly academised system. The world is changing and the Government want all schools to be in MATs before too long. With that in mind, we need to rethink admissions and, as my noble friend Lord Hunt said, parents' right to make complaints.

This sits alongside our Amendment 116, which seeks to prevent some of the sharp practices that disadvantage some children under current arrangements. I note what the Minister said earlier in response to the first group on this issue, but we are firm in our belief that this is the best way to manage admissions fairly—through local authorities. She said she would be engaged in a conversation about that with local government and we look forward to hearing the outcome of that discussion. We feel that, if local authorities take that honest broker role on behalf of parents, they will not have a vested interest in the decisions. They will be fair and in some way separate from the schools. That is quite an important change. My understanding is that local authorities will be willing and enthusiastic to undertake that role.

Our Amendment 117 again refers to partnerships. We had a good discussion on this in Committee and the Minister accepted the case we were making in good spirit. I hope she continues to develop this approach through her deliberations over the summer, because I was quite encouraged by her response in Committee.

Baroness Barran (Con): I thank noble Lords for their contributions to the debate. I will start with Amendments 31 and 32 in the name of the noble Lord, Lord Hunt, which seek to require electronic communications and voting to be permitted during petitions and ballots to remove selection and to make it easier to initiate a ballot. As he explained, these amendments aim to make it easier for those who are opposed to grammar schools to ballot for the removal of selection.

We want to strike a balance between protecting the selective status of grammar schools on the one hand, and the right of parents to vote to remove selection on the other. We will review the grammar school ballot regulations once the Bill comes into force to ensure that they properly cover ballots for academies that are designated as grammar schools. I assure the noble Lord that we will consider his suggestion in respect of electronic communications in this context. However, we do not think that the level of procedural detail set out in Amendment 31 would be suitable in the Bill.

I do not agree that the threshold for calling a ballot should be lowered from 20% to 10% of eligible parents in favour, as Amendment 32 proposes. As we discussed earlier, conducting a ballot can have a significant financial cost, so it is important for those who petition for one to show that they have sufficient support.

I hope the noble Lord joins me in being pleased that tutoring is no longer the preserve of middle-class parents and their children. With our national tutoring programme, we are rightly targeting children in areas of deprivation to make sure they also have access to that support.

I am grateful to the noble Lord, Lord Shipley, and the noble Baronesses, Lady Chapman and Lady Wilcox, for Amendments 47 and 116. Local authorities have a key role in our education system. Existing legislation places a duty on local authorities to ensure that every child has a school place. Freedom to set school admission arrangements is therefore limited and rightly constrained by the statutory framework set by the School Admissions Code and admissions law, which applies to all admissions authorities, including academy trusts. This requires that admission arrangements are fair, clear and objective.

Removing this freedom from academy trusts and making local authorities the admission authorities is a step too far, as it would prevent school leaders from making the decisions most appropriate for their school community. Instead, the schools White Paper committed to tackle the concerns directly. As I said in response to the first group of amendments, and repeat given its relevance to these amendments, in the schools White Paper we committed to consult on powers for local authorities to address the exact issues that noble Lords raised—namely, to direct an academy to admit a child or to object to the schools adjudicator where a trust could admit more pupils but will not add places and there is no other suitable option.

We also committed to consult on local authorities co-ordinating all applications for admissions, including in-year, and to work with the sector to develop options to reform how oversubscription criteria are set, in order to ensure greater fairness. I reiterate those commitments today. We think it right that the Secretary of State continues to support local authorities to deliver these duties and that we encourage collaboration. Our commitments in the schools White Paper will deliver that. It is important that we wait to hear sector views through our consultation.

I will speak next to Amendment 46 in the name of the noble Baroness, Lady Chapman, alongside Amendments 102 and 103 tabled by the noble Lord, Lord Hunt. Unsurprisingly, our reasons for resisting the amendments have not changed significantly. First, we believe that there is a route for anyone to complain about the admission arrangements of a school—not about specific cases, as the noble Lord pointed out—whether it is an academy or a maintained school. That complaint route is to the independent Schools Adjudicator. That includes concerns that the oversubscription criteria to be used by the school to allocate places are unfair. The adjudicator's decisions are binding and enforceable.

Secondly, where parents want to complain about the decision not to offer their child a place, they have the right to bring an admissions appeal to an independent appeal panel, regardless of whether the school is an academy or a maintained school. Thirdly, parents have a right to raise a maladministration complaint where they are concerned that their independent appeal was not properly conducted. These complaints are considered by different bodies—by the Local Government and Social Care Ombudsman in the case of maintained schools and by the department in the case of academies—but both the department and the LGSCO would ask the appeal panel to re-run the appeal if they found it was maladministered. On that basis, the Government are satisfied that there are clear, fast, effective and independent routes in place to deal with admissions complaints. However, the regulatory and commissioning review creates an opportunity to consider the routes of challenge and appeal available in relation to academies, including for parents, which I think is the point that the noble Baroness was referring to.

Amendment 103, tabled by the noble Lord, Lord Hunt, has a similar purpose in mind. The provision of independent scrutiny for academy complaints is an integral element of the requirements already in place for academy trusts. Where a parent has exhausted an academy's complaints process and has concerns about whether the academy followed the correct process, they can raise their concern with the Department for Education. Where the case falls within the department's remit, the department will assess whether the academy has handled the complaint correctly. If the complaint is upheld, the department may ask the academy to reconsider the complaint.

I now turn to Amendment 106, tabled by the noble Lords, Lord Shipley and Lord Storey. We considered in Committee a version of this amendment seeking to codify the role of the local authority for all state schools in its area. I have already set out the Government's position on the matter of local authorities being given the admission authority role. There is existing legislation making local authorities responsible for a number of duties covered in this amendment and so further legislation is unnecessary to achieve those particular aims. They include duties: to provide suitable education for children who would not otherwise receive one, including as a result of exclusion; to identify children and young people in their area who have special educational needs or disabilities; and to work with other agencies to ensure that support is available to meet their needs.

It is important to consider local authorities' duties for children, particularly those who are vulnerable, in the wider reform context, including as part of our responses to the consultation on the SEND and alternative provision Green Paper and our children's social care implementation strategy. It is important that we wait to hear sector views through consultation. Ofsted already considers the rate and patterns of exclusion and takes action. Where it finds evidence of off-rolling, it is always included in the inspection report and can lead to the school's leadership being judged inadequate.

We are also considering recommendations set out in the *Independent Review of Children's Social Care* and the national child safeguarding panel's report into the terrible deaths of Arthur Labinjo-Hughes and Star Hobson on the role of education in issues such as child protection and providing family help. We intend to respond to those later this year in our detailed implementation strategy.

7.15 pm

Before we specify in legislation the role of local authorities in championing the interests of vulnerable children, it is important that we work with local authorities, safeguarding partners, schools, trusts and parents to

[Baroness Barran]
listen to their views raised in consultation. As your Lordships will recognise, we have already committed to developing a collaborative standard between trusts, local authorities and third-sector organisations. We will work with the sector to develop the detail of this standard as part of the regulatory review. The review will also develop further the area-based approach to commissioning trusts which we articulated in the guidance released in May on implementing school system reform. The White Paper made it clear that we believe strong trust leaders have the expertise to drive school improvement, rather than local authorities. That remains the Government's position, but I hope the detail I have provided today, including in recommitting to consultations in this grouping, provides some assurance.

I thank the noble Baronesses, Lady Chapman and Lady Wilcox, for proposing Amendment 117. As we have discussed in the Chamber, coherence and collaboration between different parts of our school system are vital, but we are already planning measures that will strengthen collaboration, so I do not believe this amendment is necessary. As your Lordships will recognise, we have already committed to developing a collaborative standard which will facilitate effective partnerships between trusts, local authorities and third-sector organisations for the benefit of their local communities. We will work with the sector to develop the detail of this standard as part of the regulatory and commissioning review, as I have said. We will also develop the area-based commissioning approach. It is vital, as the noble Baronesses pointed out, that trusts, local authorities and other actors in the school system work together effectively. The schools White Paper set out the Government's commitment to ensure this is the case, and the SEND Green Paper outlines proposals to enable statutory local SEND partnerships. However, the White Paper is clear that it is school leaders themselves through strong trusts who have the expertise to drive improvement and take part in collaboration. With that, I ask the noble Lord, Lord Hunt, to withdraw his amendment and other noble Lords not to move theirs.

Lord Hunt of Kings Heath (Lab): My Lords, we should all be grateful to the Minister for a very full response. I think it is disappointing in relation to the strategic role of local authorities. Local authorities need to be given confidence to take on an important role in relation to education and I hope that we will come back to this in future debates.

I am also disappointed by what the Minister said about Amendment 117 and the idea of a partnership board. I know from Birmingham and the work of my noble friend Lady Morris how important and valuable that has been. In the Health and Care Bill, which has just gone through, we legislated for integrated care partnerships, which are designed for health and care to bring people together in same way as my noble friend's amendment sought to do in education. It is a pity that we have missed that opportunity.

On grammar schools, I note what the Minister has to say about the future regulations, for which I am grateful. It is quite extraordinary that she did not agree to reduce the threshold from 20% to 10%. I will not go any further seeing that my noble friend Lord Blunkett is in his place. On the ombudsman, I took what she said to mean that there is a glimmer of light that she will look at this at least in the context of the governance review and parents' rights when they have concerns. I beg leave to withdraw the amendment.

Amendment 31 withdrawn.

Amendment 32 not moved.

Clause 29: Local authorities: power to apply for an Academy order

Amendments 33 and 34 not moved.

Amendment 35

Moved by ***Baroness Barran***

35: Clause 29, page 23, line 36, at end insert ", and

(c) in the case of a school which has a religious character, the appropriate religious body."

Member's explanatory statement

This amendment would require a local authority to obtain the consent of the appropriate religious body before applying for an Academy order in respect of a maintained school in its area with a religious character.

Amendment 35 agreed.

The Deputy Speaker (Baroness Henig) (Lab): If Amendment 36 is agreed to, I cannot call Amendments 37 and 38 on grounds of pre-emption.

Amendment 36

Moved by ***Baroness Barran***

36: Clause 29, page 24, line 1, leave out subsections (4) to (8)

Member's explanatory statement

This amendment would remove from clause 29 the amendments to the Academies Act 2010 that are consequential on the new s.3A. The new clause contained in the amendment in Baroness Barran's name inserted after clause 29 gives rise to very similar consequential amendments, so these are consolidated into a Schedule (see the amendment in Baroness Barran's name inserting the new Schedule 2A).

Amendment 36 agreed.

Amendments 37 and 38 not moved.

Amendments 39 and 40

Moved by ***Baroness Barran***

39: After Clause 29, insert the following new Clause—

"Schools with a religious character: power of certain bodies to apply for an Academy order

In the Academies Act 2010, after section 3A (as inserted by section 29) insert—3BApplication for Academy order by certain bodies for schools with a religious character(1)(1) Any of the following may apply to the Secretary of State for an Academy order to be made in respect of a voluntary or foundation school with a religious character—(a)(a) the trustees of the school;(b)(b) the person or persons by whom the foundation governors are appointed;(c)(c) the appropriate religious body.(2)(2) Before making an application in respect of a school

under this section, the applicant must consult—(a)(a) the governing body, and(b)(b) the local authority.(3)(3) A person may make an application under this section only with the consent of all of the other persons mentioned in paragraphs (a) to (c) of subsection (1) that exist in relation to the school.(4)(4) Expressions used in subsection (1) and SSFA 1998 have the same meaning as in that Act.

"3B

Application for Academy order by certain bodies for schools with a religious character

(1) Any of the following may apply to the Secretary of State for an Academy order to be made in respect of a voluntary or foundation school with a religious character—

(a) the trustees of the school;

(b) the person or persons by whom the foundation governors are appointed;

(c) the appropriate religious body.

(2) Before making an application in respect of a school under this section, the applicant must consult—

(a) the governing body, and

(b) the local authority.

(3) A person may make an application under this section only with the consent of all of the other persons mentioned in paragraphs (a) to (c) of subsection (1) that exist in relation to the school.

(4) Expressions used in subsection (1) and SSFA 1998 have the same meaning as in that Act.""

Member's explanatory statement

This amendment would provide certain bodies involved in the governance of a school with a religious character with the power to apply for an Academy order for the school. (In practice, the body may make a single application covering more than one school, provided that the consultation and consent requirements are met for each school named in the application.)

40: After Clause 29, insert the following new Clause—

"Sections 29 and (Schools with a religious character: power of certain bodies to apply for an Academy order): consequential amendments to the Academies Act 2010

Schedule 2A contains amendments to the Academies Act 2010 which are consequential on sections 29 and (Schools with a religious character: power of certain bodies to apply for an Academy order)."

Member's explanatory statement

This amendment inserts a new clause introducing the new Schedule of consequential amendments to the Academies Act 2010.

Amendments 39 and 40 agreed.

Amendment 41 not moved.

Amendment 42

Tabled by ***The Duke of Wellington***

42: After Clause 29, insert the following new Clause—

"Specialist schools: power to retain status quo

No specialist school with or without Academy status may be required to become an Academy or to join a Multi Academy Trust without the agreement of the governing body and, where appropriate, the sponsoring institution."

Member's explanatory statement

This amendment would preserve the present status of such specialist schools as maths schools or music and dance schools, in recognition of their distinctive and national role.

Baroness Barran (Con): My Lords, with the leave of the House, I would like to add a clarification to the remarks I made earlier about this amendment.

There is nothing in the Bill or any existing legislation that would enable the Government to force a single-academy trust that is not subject to intervention to join a MAT. To be clear, when I talk about "subject to intervention", that could mean, for example, that a school had been judged inadequate by Ofsted, where the normal existing powers would apply. Furthermore, there are no regulation-making powers in the Bill, or in any other legislation that I am aware of, that would enable us to set regulations to change that. So there is nothing in this or any other Bill, either in regulation or in any other aspect, that would allow us to force a single-academy trust to join a MAT, either specialist or mainstream. I know the noble Duke, the Duke of Wellington, spoke about the maths schools as specialist schools, but in our language a "specialist school" relates to children with special educational needs. We see them as mainstream single-academy trusts.

Earlier there was debate, and questions were asked, about whether the Government would take a power to compel schools. The decision was taken not to assume such a power. I wanted to take this opportunity to underline more clearly the legal position in relation to single-academy trusts.

The Duke of Wellington (CB): My Lords, I am grateful to the Minister for yet another conversation that we have had on this subject; I am afraid she has had to listen to me quite often. I am grateful to her for her clarification, and I hope it goes far enough to reassure the King's Maths School and other maths schools that there is no danger of that happening. I am grateful for this assurance. I may come back to it in some other format in the future, but in the meantime I shall not move my amendment.

Amendment 42 not moved.

Amendments 43 to 47 not moved.

Clause 32: Interpretation of Part 1

Amendments 48 to 54

Moved by ***Baroness Barran***

48: Clause 32, page 27, leave out lines 30 and 31

Member's explanatory statement

This amendment, which removes the definition of "Academy financial year" from clause 32, is consequential on the removal of clauses 8 and 10.

49: Clause 32, page 27, leave out line 37

Member's explanatory statement

This amendment, which removes the definition of "Academy standard" from clause 32, is consequential on the removal of clause 1.

50: Clause 32, page 27, leave out line 40

Member's explanatory statement

This amendment, which removes the definition of "compliance direction" from clause 32, is consequential on the removal of clause 5.

51: Clause 32, page 28, leave out lines 4 and 5

Member's explanatory statement

This amendment, which removes the definitions of "interim trustee" and "interim trustee notice", is consequential on the removal of clause 7 and Schedule 2.

52: Clause 32, page 28, leave out line 9

Member's explanatory statement

This amendment, which removes the definition of "notice to improve" from clause 32, is consequential on the removal of clause 6.

53: Clause 32, page 28, leave out lines 12 to 16 and insert—

""pupil" , in relation to an Academy school, means a registered pupil at the school;"

Member's explanatory statement

This amendment, which amends the definition of "pupil" in clause 32, is consequential on the removal of clauses 1 to 18.

54: Clause 32, page 29, leave out line 4

Member's explanatory statement

This amendment, which removes the definition of "termination warning notice" from clause 32, is consequential on the removal of clauses 13 to 15.

Amendments 48 to 54 agreed.

Clause 33: Part 1: regulations

Amendments 55 and 56

Moved by ***Baroness Barran***

55: Clause 33, page 29, line 18, leave out subsection (3)

Member's explanatory statement

This amendment is consequential on the removal of clauses 1, 3 and 5.

56: Clause 33, page 29, line 26, leave out "Any other" and insert "A"

Member's explanatory statement

This amendment is consequential on the amendment in Baroness Barran's name at page 29, line 18.

Amendments 55 and 56 agreed.

Clause 34: Nationally determined funding for schools in England

Amendment 57

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

57: Clause 34, page 29, line 34, at end insert—

"(1A) If, in the event of future consultations on the direct national funding formula, the Secretary of State concludes that local authorities are best placed to determine and administer certain aspects of school funding allocations relating to the specific roles and duties of local authorities, or where local authorities have better access to information that would allow them to determine the funding more accurately, the Secretary of State may by regulations delegate responsibility for calculating and administering these aspects of funding to local authorities for schools within their area."

Member's explanatory statement

In the event of a future consultation on the national funding formula concluding that local authorities would be best placed to determine and administer certain aspects of school funding, this amendment would enable the Secretary of State through regulations to delegate these powers to local authorities to effectively meet local education funding needs.

Lord Hunt of Kings Heath (Lab): My Lords, my amendment is based on discussions with the Local Government Association—although, unlike almost every other noble Lord in your Lordships' Chamber, I am not a vice-president of the LGA, despite years of endless work as a local government councillor.

My amendment, to which the noble Lord, Lord Shipley, has kindly added his name, would enable the Secretary of State to lay regulations to delegate responsibility for calculating and administering aspects of school funding to local authorities, should future government consultations on the direct national funding formula conclude that local authorities would be best placed to do so. Concerns were raised in Committee about the Government's plan to set more than 24,000 schools' budgets centrally from Whitehall and remove input from local authorities. School funding is complex, and local education authorities that work closely with maintained schools are very well placed to understand the unique circumstances of each school.

The Government's own fact sheet on the implementation of the direct national funding formula recognises that there may be some instances where the Government are not able to set school budget allocations at the national level—

"for example, where this is related to specific roles and duties of local authorities, or where local authorities have better access to information that would allow them to determine the funding more accurately."

The document goes on to say that councils may be better placed to determine certain aspects of school funding, such as additional funding for PFI schools and funding for schools with growing or falling school rolls. The approach to those aspects of funding will be consulted on in the second-stage consultation on the direct national funding formula, which is set to close in September.

As schools' local point of contact, naturally councils have access to local education data and can work more agilely to respond to changing local circumstances than can be done from the centre. None us should underestimate the huge work involved in having a national system of funding when you are dealing with thousands upon thousands of schools. I wonder at the Government's nous in taking on that responsibility, but of course this change means that Ministers are accountable to this House and the other place for anything to do with school funding.

I hope the Government will reconsider this measure and that, when they come to consider the results of the second-stage consultation, they will see local authorities as being a partner in the whole funding of local schools. At the very least, if the Government's ongoing consultation concludes that councils are indeed best placed to deliver certain aspects of school funding, surely the appropriate power should be delegated to councils in order to avoid causing schools unnecessary financial difficulties as the direct national funding formula is implemented. I beg to move.

Lord Storey (LD): My Lords, I thank the noble Lord, Lord Hunt, for reminding me that I should declare my interest as a vice-president of the Local Government Association.

I have three amendments in this group. I think Amendment 59 is pretty self-explanatory: it would increase the pupil premium in 2023-24 by £160 per primary pupil and £127 per secondary pupil from 2022-23 levels, before pegging it to inflation. That is clear.

Amendment 60 is about alternative education. Members will have heard me going on about that for some time, but it really is important that we look at ensuring that when the most vulnerable pupils—often with special educational needs and often from poorer backgrounds—end up in alternative provision, the financing is transferred swiftly along with their education, health and care plans.

That brings me to Amendment 58, which is the one that I really want to concentrate on. This issue is important. Yesterday I sat in on the child vulnerability debate, which was as a result of the Public Services Committee report. During that debate, I heard our Minister say:

"As your Lordships have reflected, the real test of any society is how it treats those who are most vulnerable within it".—[*Official Report*, 11/7/22; col. 1350.]

She went on to say, quite rightly, that the priority of her department is to support the most vulnerable children. Who could be more vulnerable than the 800,000 children that the Child Poverty Action Group has found live in relative poverty and do not qualify for a free school meal?

7.30 pm

Is it not a basic duty of government to ensure that children can eat healthily? Our children desperately need help and extending free school meals to all universal credit households must be a vital step forward. Children are going hungry now. While families struggle to put food on the table, the Government's policy is to continue to keep free school meals under review. Government rules restrict free meals to those families with a net annual earning of less than £7,400, excluding the universal credit they receive, yet with food prices having risen by 8.7% in the last 12 months, food shopping is eating into weekly budgets more and more. Can Ministers really expect parents on these squeezed budgets to pay for school meals or provide healthy packed lunches?

The rules also deter parents from working. When universal credit was introduced, the Government promised that parents and families would be better off for every hour that they worked, but that is not true. Many parents make the difficult choice between working more hours or keeping free school meals for their children. A family with three children now has to earn an extra £3,133 after tax to make up for the cost of losing free school meals. This is a Government who claim they want more people to work, but they have created a poverty trap that deters parents from doing so.

The benefits of extending free meals seem to be obvious to everyone except the Treasury—even the Government's own adviser on the national food strategy, Henry Dimbleby, wants every child whose family claim universal credit to get a free lunch. Remember, this was the person who was appointed by the Government to look at their food strategy. What did the Government do? They rejected his recommendations and snubbed his back-up proposal to give 1.1 million extra children a free meal. That would have covered more than four in five children in households with low food security.

We will hear, no doubt, that we cannot afford it, it is not our decision to make, it is beyond my pay grade, and that we have not seen what the fiscal policies are. While we are saying all these things, children are starving, or families are having to reduce the amount of food they give their children. At the same time, during the leadership campaign that we are all glued to every night, we hear a succession of candidates say that they will slash taxes. They can find the money to slash taxes but they cannot find the money to feed these poor children. What sort of society have we come to that we are facing this decision?

Free school meals are a simple, unobtrusive way of ensuring that all children from low-income families have at least one balanced, healthy, nutritious meal a day. The Government know this, having already extended free school meals to children without recourse to public funds during the pandemic, which has now been made permanent. I ask the Minister to push aside her brief and reflect on the words she said yesterday about vulnerable children. Let us finally support all those children who need to be fed.

The Lord Bishop of Durham: My Lords, I shall speak to all these amendments. I declare my interest as chair of the National Society, but I should probably make it abundantly clear that, in the previous group, I was definitely speaking on behalf of the Church of England corporately, whereas I do so now in a personal capacity—though I suspect that many of my colleagues on these Benches will not disagree with me.

The proposal made by the noble Lord, Lord Hunt, makes a lot of sense, but it strikes me that it probably falls under the academies regulation and commissioning review. The role of local authorities and devolving it down makes some sense.

I associate myself completely with everything the noble Lord, Lord Storey, has just said about the provision of free school meals. We all know that there are a growing number of children in households that are facing real difficulties in providing for them. Today, in the End Child Poverty report, we see that the north-east of England has the highest percentage of children in poverty of any area now, sadly overtaking London. Time and again I hear from schools that are struggling because children are arriving not having been adequately fed. They see the advantage of those on free school meals and know how much it means, and they struggle with those whose family are on universal credit but are not being given free school meals. Ideally, personally, I would go back to free school meals for all primary school children. However, I know we will not get that, so this proposal makes complete sense. Simply put it is a win that the Government can make in the public eye. We know that the situation will get worse in the coming months, and this would help enormously. I hope it will be given serious consideration.

On Amendment 59, I was recently in a maintained school—not a church school—where a high number of children have the pupil premium. I talked to the head about how she used it, and she was very clear

[The Lord Bishop of Durham]
that she makes sure that the pupil premium grant goes to the relevant child and is used appropriately. I asked her if it covers all the extra costs. Her answer was very simple: in most cases, no. She was happy to accept that in some cases the answer was yes, but it most cases it was no. She has to supplement the extra needs for pupils who are eligible for the pupil premium from other quarters. This proposed increase would make sense, and then to tie it to inflation. The pupil premium makes a huge difference for many children and many schools. Schools seek to use it properly for the individual children.

Amendment 60 is simply common sense and I hope it will be supported.

Lord Shipley (LD): My Lords, I want to add a comment about a recent report by the abrdn Financial Fairness Trust and the University of Bristol, published a few days ago. It pointed out that over 4 million households, or one in six families, are in very serious financial difficulty now. The Child Poverty Action Group has identified some 800,000 children in poverty who do not qualify for free school meals.

The cost of giving free school meals to families on universal credit is around £500 million to £550 million a year. This is a very serious issue, as my noble friend Lord Storey and the right reverend Prelate the Bishop of Durham have identified. At a cost of £550 million, it would mean that a large number of children are able to have a hot meal every day they are at school. That seems to me to be a basic need that can be fulfilled by the Government very quickly.

As we know, we are heading into a very difficult few months because the uprating of benefits will not apply until April of next year, based on September's figures for CPI. I hope the Minister will say something about how poor families and children in poverty are to be assisted by the Government over the next few months. The amendment moved by my noble friend Lord Storey is a way of the Government delivering a more equal and fair society.

Baroness Chapman of Darlington (Lab): First, I congratulate my noble friend Lord Hunt on his amendment in this group. I see it as a safeguard, if you like, against the system not delivering as the Government anticipate. The Secretary of State could deal with the situation without having to come back to this House and, I suggest, it would be in the Government's interest to consider this amendment positively.

Should the Government choose to adopt the amendments of the noble Lord, Lord Storey, especially Amendments 58 and 59, they would have our wholehearted support. Noble Lords should not be surprised, of course, that the Labour Party takes this view. We lifted 1 million children out of poverty when we were last in government; we introduced the minimum wage and Sure Start; we introduced the first universal free childcare offer and oversaw significant increases in education and spending. This is at the heart of who we are.

This is an urgent and widespread problem. In the north-east, as the right reverend Prelate the Bishop of Durham said, a third of children are already on free school meals, so I know all too well how valuable a free meal is to families. Alternative proposals have been made; for example, providing a free school meal for children in families earning less than £20,000. In Labour-run Wales, reception-age children will get a free school meal from September, with all primary schoolchildren receiving them by 2024.

We are concerned, too, about hunger during the school holidays. Currently, the holiday activity fund benefits only around a third of children on free school meals. I had hoped to discuss this with the relevant Minister last week, but he resigned instead. However, we are concerned about this and while some good evaluation has been done of the holiday activity fund, the fact that we are missing two-thirds of children on free school meals indicates that there is more work to do on why more children are not accessing it. While it is an attempt to improve the situation, it is just not working widely enough.

I say this to the Government: whoever emerges as Prime Minister in a few weeks' time, he or she will have to bring forward urgent measures to support hard-pressed families. Labour has argued for increases in the early years pupil premium and a recovery action plan, but it is important that we go much further. It is important, too, that we do not make spending commitments without having identified the source of the funding tonight. We are working on how best to do this, so that stigma and holiday provision are tackled as well, because we need to act.

Families are struggling to afford the basics and with inflation, energy costs and food prices all increasing, the situation is just getting worse and worse. I put on record my sincere thanks—thank goodness they are there—to all those schools, teachers, charities and voluntary organisations that are saving lives by doing such amazing work in communities up and down the country. They are trying the best they can to fill this gap.

From our position, the Opposition can only hope that the Government bring forward measures quickly, as the Labour Party has done in Wales. If they do, we will support them.

Baroness Barran (Con): My Lords, I start by responding to Amendment 57 in the name of the noble Lord, Lord Hunt, on the importance of local flexibility within the direct national funding formula. The legislative framework in Part 2 of the Bill already allows for local authorities to determine and administer certain aspects of school funding. Clause 37 will require local authorities to determine supplementary allocations for each of their local schools if the Secretary of State provides for this in regulations. In practice, this means that schools will be able to receive top-ups to their budget, calculated by the local authority, in addition to the department's national funding formula. This provides flexibility for local authorities to retain a role in the allocation of funding.

7.45 pm

There has been extensive consultation on the factors and factor values to be used in the national funding formula, and the vast majority of funding will be

allocated nationally. However, our recent consultation highlighted some limited areas where local authorities may be best placed to make determinations. This is because they have access to better information or relevant legal or contractual obligations, for example with new and growing schools or with schools with PFI contracts. Under Clause 37, local authorities could continue to determine funding allocations for both those areas. We will of course consult in advance of introducing locally-determined supplementary funding, as with any other major changes to the formula.

I turn to Amendment 58, in the name of the noble Lord, Lord Storey, on free school meals. He referred to my remarks in the debate last night; obviously, I stand by those remarks. Under the benefits-related criteria, the department provides for free, healthy school lunches for around 1.9 million children. This equates to 22.5% of all pupils, up from 15% in 2015, due in part to the generous protections given as universal credit is rolled out. Just to reiterate what those protections are, all children eligible for a free meal at the point the threshold was indicated, and all who become eligible as universal credit rolls out, will continue to receive free school meals even if their household circumstances significantly improve, moving them above the earnings threshold. After the protections end, if they are still in school these children will continue to be protected until the end of their phase of education, whether that be primary or secondary.

Under this Government, eligibility has been extended to more children than under any previous Government, including to children with no recourse to public funds. To deliver this provision, we have increased the funding allocated through the free school meals factor in the national funding formula to £470 per eligible pupil this year. Core funding for mainstream schools is also increasing by £2.5 billion in 2022-23, compared to last year. A further 1.25 million infants are supported through the universal infant free school meal policy, meaning that 37.5% of pupils are provided with a free lunch, at a cost of over £1 billion a year.

Extending free school meals to all families on universal credit would carry a significant financial cost and, taken together with universal infant free school meals, result in around half of pupils being eligible for a free meal, some in households with incomes exceeding £40,000 per year. This would have substantial knock-on impacts for the affordability of linked provisions such as the pupil premium.

Noble Lords are rightly focused on the current cost of living pressures. As your Lordships are aware, we have announced £37 billion of support for the cost of living this year, with targeted support to the poorest households. Millions of the most vulnerable households will received at least £1,200 in support this year, with all households receiving at least £400 to help with their bills.

I absolutely respect the noble Lord and know he brings this amendment in good faith, but I hope he will also acknowledge that the Government have made a very generous, important and substantial move on support for vulnerable families through the £37 billion package, as opposed to through a direct intervention such as this. The purpose is closely aligned.

It is right that support is aimed at the most disadvantaged: those who are out of work or on the lowest incomes. We will continue to keep free school meal eligibility under review to make sure that we are supporting those who most need those meals.

I turn to Amendment 59 from the noble Lord, Lord Storey, on pupil premium funding. We have increased total pupil premium funding to over £2.6 billion this year, up by 2.7% from last year. The support provided through the pupil premium sits alongside an even larger sum of £6.7 billion for pupils with additional needs, as allocated through the schools national funding formula. The Government are investing an additional £1 billion in a recovery premium over the next two academic years to support disadvantaged pupils following disruption from Covid-19. The Government are already investing very significantly to support disadvantaged pupils. We keep this under review every year to make sure that we support these pupils in the most effective way.

The annual considerations need to take into account a wide variety of factors. Of course the general rate of inflation is relevant, but so too are other considerations, including the specific cost pressures that schools face; the changing roles, responsibilities and expectations on schools; the most appropriate and targeted definition of disadvantage; and the total funding available for schools in a year and the balance with other priorities for that funding. These need to be considered in the round, and this amendment would restrict our and future Government's ability to do that.

Amendment 60, also in the name of the noble Lord, Lord Storey, is on budget adjustments for excluded pupils. Clause 42 aims to provide a continuation of the existing policy. When a pupil is excluded from a mainstream school, funding follows that pupil from the school that has excluded them to the new school or alternative provision. Therefore, this legislation already allows local authorities to make budget additions for pupils permanently excluded who have been placed in alternative provision by the authority. The regulations would specify how such budget additions are calculated. The amendment also seeks that any education, health and care plans also transfer with a permanently excluded child to new alternative provision. I assure the noble Lord that this is already required under existing special educational needs legislation and as outlined in the EHCP code of practice.

More generally, the recent SEND and AP Green Paper proposed a number of changes to provision for permanently excluded pupils and those who cannot be found a place immediately in another school. This includes local authorities committing to long-term funding for alternative provision schools. We will be looking carefully at the consultation responses to see what changes are needed. Future local arrangements for the funding of permanently excluded pupils placed in alternative provision need to be developed with these responses in mind.

I hope the noble Lord, Lord Hunt, will withdraw his amendment and that other noble Lords will not move theirs.

Lord Hunt of Kings Heath (Lab): My Lords, this has been a short but very interesting debate. On the issue of local authority involvement in the funding of

[Lord Hunt of Kings Heath]
schools, I note what the noble Baroness said about top-ups and the consultation which has identified some limited areas. I just think the Government should go further. I worry about the funding of every school in this country being directly from government, as the exclusive funder. I am convinced that there must be a stronger role for local authorities.

On the question of the pupil premium and free school meals, it has been a very telling debate. On the one hand we have the real experience of poverty, and the pressures in the economy making this even worse; on the other hand, we have Conservative candidates vying to be Prime Minister making fancy promises about tax cuts, as the noble Lord, Lord Storey, said. That will come only from cutting public expenditure or borrowing even more. No one can be in any doubt that we are in for not just austerity but austerity-plus-plus. I worry about the impact that this is going to have on our most vulnerable families. This has been a very good debate to illustrate that. Having said that, I beg leave to withdraw my amendment.

Amendment 57 withdrawn.

Amendment 58

Moved by ***Lord Storey***

58: After Clause 39, insert the following new Clause—

"Provision of free school lunches to all pupils in households in receipt of universal credit

(1) In section 512ZB of the Education Act 1996 (provision of free school lunches and milk)—

(a) in subsection (4)(a)(ai), omit "in such circumstances as may be prescribed for the purposes of this paragraph";

(b) in subsection (4)(b)(ai), omit "in such circumstances as may be prescribed for the purposes of this paragraph".

(2) In the Free School Lunches and Milk, and School and Early Years Finance (Amendments Relating to Universal Credit) (England) Regulations 2018 (S.I. 2018/148), omit regulations 2 to 4.

(3) The Secretary of State must ensure that funding to maintained schools and Academies is sufficient to provide school lunches free of charge to pupils in receipt of, or whose parents are in receipt of, universal credit."

Member's explanatory statement

This amendment extends the provision of free school meals to all children whose parents are in receipt of universal credit, and places a duty on the Secretary of State to ensure that sufficient funding is available to schools to provide this.

Lord Storey (LD): My Lords, I wish to test the opinion of the House.

7.55 pm

Division on Amendment 58

Contents 51; Not-Contents 108.

Amendment 58 disagreed.

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8.06 pm

Amendment 59 not moved.

Clause 42: Excluded pupils: budget adjustments

Amendment 60 not moved.

Amendment 61

Moved by ***Baroness Barran***

61: Before Schedule 3, insert the following new Schedule—

"Schedule 2A

Sections 29 and (Schools with a religious character: power of certain bodies to apply for an Academy order): consequential amendments to the Academies Act 2010

1 The Academies Act 2010 is amended as follows.

2 (1) Section 4 (Academy orders) is amended as follows.

(2) In subsection (1)(a), after "3" insert ", 3A or 3B".

(3) In subsection (4)(c), for "that has a foundation" substitute ", all of the following that exist in relation to the school".

(4) In subsection (5)—

(a) in the words before paragraph (a), after "3" insert ", 3A or 3B";

(b) in paragraph (c), for "that has a foundation" substitute ", all of the following that exist in relation to the school".

(5) Omit subsections (8) to (10).

3 In section 5 (consultation about conversion: schools not eligible for intervention), in subsection (1), for ", the school's governing body" substitute "as a result of an application under section 3, 3A or 3B, the applicant".

4 In section 5A (consultation about identity of Academy sponsor in certain cases), omit subsections (3) to (5).

5 In section 5B (duty to facilitate conversion), for subsection (1) substitute—

"(1) Where—

(a) an application under section 3A or 3B has been made for an Academy order in respect of a school, or

(b) an Academy order under section 4(A1) or (1)(b) has effect in respect of a school,

the governing body of the school and the local authority must take all reasonable steps to facilitate the conversion of the school into an Academy."

6 In section 5C (power to give directions to do with conversion), for subsection (1) substitute—

"(1) Where—

(a) an application under section 3A or 3B has been made for an Academy order in respect of a school, or

(b) an Academy order under section 4(A1) or (1)(b) has effect in respect of a school,

the Secretary of State may direct the governing body of the school or the local authority to take specified steps for the purpose of facilitating the conversion of the school into an Academy."

7 In section 7 (transfer of school surpluses), in subsection (1)(b), after "3" insert ", 3A or 3B".

8 In section 17 (interpretation), after subsection (2) insert—

"(2A) In this Act, "the appropriate religious body", in relation to a school, means—

(a) in the case of a Church of England or a Roman Catholic school, the appropriate diocesan authority;

(b) in any other case, such body or person representing the specified religion or religious denomination as is prescribed under section 88F(3)(e) of SSFA 1998.

(2B) In the case of a school in relation to which there is more than one religion or religious denomination specified, references to "the appropriate religious body" are to be read as references to both or all of the bodies concerned.

(2C) In subsections (2A) and (2B), "specified" means specified in the order under section 69(3) of SSFA 1998 relating to the school.

(2D) Expressions used in subsection (2A) and SSFA 1998 have the same meaning as in that Act.""

Member's explanatory statement

This amendment would insert a Schedule into the Bill containing amendments to the Academies Act 2010 which are consequential on the new sections 3A and 3B inserted into that Act by clause 29 and the new clause inserted by the amendment in Baroness Barran's name after clause 29.

Amendment 61 agreed.

8.07 pm

Consideration on Report adjourned until 8.52 pm.

Building etc. (Amendment) (England) Regulations 2022

Motion to Regret

8.07 pm

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

That this House regrets that the Building etc. (Amendment) (England) Regulations 2022 will not apply to a significant number of buildings and that it has taken five years since the Grenfell Tower tragedy for the regulations to be laid (SI 2022/603).

Relevant document: 4th Report from the Secondary Legislation Scrutiny Committee (special attention drawn to the instrument)

Baroness Hayman of Ullock (Lab): My Lords, five years on from the tragedy at Grenfell Tower, the 72 people who lost their lives and the dozens more who were injured must always be at the front of our minds. I have brought this Motion forward because I am concerned that the buildings regulations regarding combustible material will not apply to a significant number of buildings. I am also concerned that it has taken five years since the Grenfell tragedy for the regulations to be laid.

[Baroness Hayman of Ullock]

Although we may differ on exactly how to deliver justice following one of the worst disasters of modern times, can we all recognise that there has been consensus for change across this House to raise safety standards? For this reason, I am pleased that the Government eventually brought forward further legislative changes, but we feel that, unfortunately, this still falls short for buildings already built using combustible material.

The Secondary Legislation Scrutiny Committee expressed disappointment with a number of aspects of the amended regulation. It highlighted the delay in bringing forward the instrument, which I mentioned earlier. Although the review of the combustible materials ban was undertaken in 2019, the committee noted with concern that it took "several years" to bring forward the instrument, and the changes do not come into force until 1 December this year.

The committee also drew attention to the fact that there was limited explanatory material and that the changes will apply only to new buildings and existing buildings that are being renovated. Of course, this means that a significant number of buildings will be outside the scope of the ban. An Explanatory Memorandum and impact assessment were provided by DLUHC when the instrument was laid, but it was disappointing to note that neither document provides an indication of how long it will take to make safe the existing stock of hotels, hostels and boarding homes that are higher than 18 metres and that, under the current law, are outside the scope of the instrument.

The banning of combustible materials is vital; I am sure that the Minister recognises this. Yet in the past four years, at least 70 schools and 25 hospitals and care homes have been built using potentially dangerous material. While we can all hope that the regulations will prevent further buildings from being constructed with these materials, the fact that it took the Government over a year to even respond to the consultation on a ban on combustible materials is inexcusably slow. Because changes to building regulations and guidance are not retrospective, the situation is that the combustible materials ban applies, as I said, only to new buildings and to existing buildings when they are undergoing work. Our concern is that, as a result, significant numbers of existing buildings will not be covered by the ban.

In its response to the consultation two years ago, the Construction Industry Council recommended that the Government extend the ban on the use of combustible materials to a wider range of buildings than was proposed. It wanted the ban to include care homes, halls of residence and, potentially, schools. Its response said:

> "There is also a case to extend the ban to buildings where there is a reduced capacity for escape such as care homes and hospitals and where young people assemble, (e.g. schools and nurseries) and public assembly buildings (e.g. theatres, libraries and community centres)."

We need to do as much as we can to protect the safety of the most vulnerable in our society. If we are to truly deliver justice, we must make all buildings safe, not just those which are new or undergoing construction or refurbishment. That means that not only should we raise safety standards, but we must put power back into people's hands to ensure that such an appalling disaster can never happen again.

Another area of concern raised by the committee was that of enforcement. It noted that when the changes come into force in December this year, for effective safety improvements to occur, they will need to be enforced by the building control bodies which are also responsible for checking compliance and monitoring the operation of the combustible materials ban. I ask the Minister: is she confident that the legislation will be properly enforced? How will the Government monitor the situation and what resources are being provided? Does she acknowledge the concerns of this Chamber and the committee, and does she acknowledge that the widespread existence of cladding defects is a result of regulatory and industry failure? Do the Government have any plans to address and resolve this issue for those buildings that are not covered?

Ultimately, housing is not simply an asset to be traded, but is the fundamental cornerstone of a secure and happy life. My amendment recognises the outstanding deficits and risks in the legislation as it stands and the lack of government action on this. I beg to move.

Lord Stunell (LD): My Lords, I am pleased that the noble Baroness, Lady Hayman of Ullock, has brought this to the House, because it is very important that we think of the terrible deaths, and the catastrophe surrounding those deaths, of the Grenfell Tower fire, and that we all commit ourselves at every stage to seeing that it never happens again. She has raised a number of issues which are very much in the same area of concern as those I wish to raise.

First, it is worth saying that we welcome the inclusion of hotels, boarding houses and hostels, which were not formerly covered. We also welcome the sensible updates and practical exemptions which have been introduced—for instance, for shop blinds and floor coverings on balconies—which are all very sensible.

The noble Baroness is absolutely right to say that we need to point out what this SI does not do, and to point out the very prolonged delays there have been in bringing it forward. That is a period when residents have had to live with that uncertainty. Designers, building owners and contractors have been left in doubt about what is safe and proper for them to specify, pay for and replace. At the moment, that uncertainty will not be settled until December next year.

8.15 pm

The Grenfell Tower fire was on 14 June 2017, when 72 people lost their lives and many more had their lives completely changed for the worst. Yet it was not until 12 months later, on 11 June 2018, that the Secretary of State reaffirmed the department's intentions, which are featured in the Explanatory Note:

> "to ban the use of combustible materials on the external walls of high-rise resident buildings, subject to consultation".

It is not clear to me why it took 12 months to get that far, but it did. It took another 18 months for the consultation to start on 20 January 2020. It is not clear to me why it would take 18 months from that ministerial announcement by the Secretary of State to the point where consultation could begin. That was an 18-week consultation, concluding on 25 May 2020. To give credit where credit is due, it is clear that the Government

took careful account of that consultation. However, it must be said that they did not even start it until two and a half years after the tragedy of the fire.

The statutory instrument to which this Motion relates says on its front that it was made "on 1st June 2022". That is 30 months after the consultation began and two years after it closed. Overall, it was five years from the fire to the moment when this statutory instrument was made and laid before this House, and it does not come into force, as the noble Baroness said, until December 2022: another six months to go, five and a half years after the tragic Grenfell Tower—that is, 66 months and 72 deaths. There has been a slow pace and a lack of urgency in bringing this matter to a conclusion and, as the noble Baroness quite rightly said, it is not a full and complete conclusion. It includes those buildings over 18 metres, and it has some regulatory control for those between 11 and 18 metres. We welcome that, although we are not certain that it solves the problem completely.

In particular, we are still waiting for news that the new building safety regulator is up and running and will be in a good position to take over the oversight of this process when this statutory instrument comes into force in December. I want to ask the Minister whether the building advisory committee set up in the Building Safety Act is yet standing up and working and giving advice either to the Minister or to the regulator. Can she tell us what progress has been made with recruiting fire safety advisers so that it is even possible to properly inspect buildings which may or may not be in scope? Can she absolutely assure this House that she and the department are satisfied that, despite the limitations of this statutory instrument, this marks a turning point in safe building control and safe building regulation?

It is not acceptable to have such a delay. It is not acceptable to find the instrument not as full in scope as some of us believed it should be, but it would be even more of a tragedy if it should turn out that our concerns are justified and that Ministers have to come back to the Dispatch Box on a future occasion to explain how, in fact, it did not plug all the holes they intended that it should. So, I support the noble Baroness in her concerns and her note of regret at this statutory instrument, and I look forward to hearing how the Minister chooses to respond to these very legitimate and difficult matters.

Baroness Scott of Bybrook (Con): My Lords, I thank the noble Baroness, Lady Hayman of Ullock, for securing this important debate—I know that not many people have spoken, but it is quality and not quantity that matters here—and for speaking, as always, so passionately. I thank the noble Baroness and the noble Lord, Lord Stunell, for the supportive and constructive approach they have taken during our deliberations on the subject of building safety over a number of months now.

As noble Lords will know, the Government have introduced a number of improvements in the building regulations and the statutory guidance to improve safety standards for new buildings, though we recognise that there is still more to do. In 2018, in the wake of the Grenfell Tower tragedy, the Government introduced changes to the Building Regulations 2010 to ban the use of combustible materials within the external walls of new residential buildings. The parent legislation for this ban is the Building Act 1984. The ban strictly limits the materials used on the external walls of new buildings to those achieving the two best "reaction to fire" classifications. The priority was to improve public safety by removing the flexibility previously given to designers, while making the route to compliance with the building regulations clearer for new blocks of flats of more than 18 metres in height.

The instrument we are debating today builds on the steps taken following Grenfell to improve the framework of rules for the construction of new buildings. A review of the combustible materials ban was undertaken in 2019, in line with the Government's commitment to do so. Following the review, the Government consulted in 2020 on changes to the scope of the ban, including the height threshold; the building types covered; the list of exemptions; whether to include attachments such as blinds; and whether to specifically ban the use of metal composite panels.

In response to the Secondary Legislation Scrutiny Committee's fourth report, which we are really discussing tonight, the Government received many detailed consultation responses—more than 850. I asked what we would normally get, and it would be around 300, so we are talking nearly three times as many. The responses showed no broad support for lowering the height threshold of the ban. A large number of respondents—318, or 44%—were against any extension of the regulatory ban, seeing it as a blunt instrument that could hinder the use of more environmentally friendly building materials. The numerous consultation responses were diligently analysed and helped us improve our initial proposals to develop a proportionate policy. The ban remained in place while detailed work went on in the intervening period to work up the packages, announced on 1 June, of linked policy measures, including the instrument we are debating, alongside new statutory guidance for buildings between 11 and 18 metres.

This instrument will amend the Building Regulations 2010 to bring hotels, hostels and boarding houses within the scope of the ban. I note that noble Lords want to look at other multi-occupancy buildings as well, and this piece of work never stops: we are continuously reviewing what needs to be done to make our housing safe.

The instrument also bans certain metal composite materials with a polyethylene core—the type used on Grenfell Tower—from use in the external walls of all buildings at any height. It also makes important technical changes to clarify inclusions and exemptions to the ban. These broad and significant regulatory changes will improve building safety overall and work hand in hand with the updated statutory guidance to clarify the rules for new buildings going forward, providing greater reassurances to the housing market for new buildings.

The 2018 regulatory ban on combustible materials introduced firm and clear rules for buildings where the risk from external fire spread is greater. This approach is in line with the Government's and experts' view that the level of risk in buildings is proportionate to their height, although we recognise that this is not the only factor. It is right, therefore, that the focus of the strict

[Baroness Scott of Bybrook]
regulatory ban is on these high-rise buildings. In all cases, for buildings at any height, the functional requirement must be met to adequately resist the fire spread over external walls, having regard to the height, use and position of the building.

The new statutory guidance on the combustibility of materials used in the external walls of new buildings between 11 and 18 metres in height builds on changes already made to approved document B in 2020 for sprinkler systems to be provided in all new blocks of flats over 11 metres. It will set clear, strong and proportionate safety standards for all 11 to 18-metre residential buildings while affording scope to build lower-risk, medium-rise buildings with more sustainable materials, providing they are used safely.

Moving to the Building Safety Act 2022, the instrument we are debating amends the Building Regulations 2010. Building regulations apply to building works; they are not retrospective and do not apply to existing buildings where no building works are carried out. Noble Lords will be aware that the Government are separately implementing most of the recommendations of the Hackitt review through the Building Safety Act, which achieved Royal Assent on 28 April.

We are making good progress with the programme of secondary legislation to implement the powers of this Act. We have laid four sets of regulations, two of which legislate for leaseholder protections included in the Act. The first consultation, on the Higher Risk Buildings (Descriptions and Supplementary Provisions) Regulations, has already been published. We expect to consult on further regulations over this summer and autumn.

A number of specific questions were asked. The noble Lord, Lord Stunell, asked about the building safety regulator, from which the building advisory committee will come. The building safety regulator was established in shadow form in January 2020 to assist the Government to develop the reforms for the Building Safety Act 2022 and prepare itself and the sector for the new regulatory regime. It is intended that the new regime will fully come into force by April 2024. The key interim steps include opening the register for high-rise buildings in April 2023, which will require accountable persons to register their buildings. I do not have a date for when the building advisory committee will be set up, but I will write to the noble Lord and give him the timescale on which it will be put in place.

In response to the noble Baroness, Lady Hayman, this SI is about new buildings, but that does not mean we have done nothing about remediation of buildings that are already there. We have provided £5.1 billion to address the fire safety risks caused by unsafe cladding on high-rise residential buildings; 94% of buildings with unsafe ACM cladding have been remediated or have work under way, and 100% of buildings in the social sector have been fixed. For high-rise buildings with unsafe non-ACM cladding, over £1.2 billion has been allocated through the building safety fund. We are reopening the fund soon to make sure that any building with dangerous cladding is fixed as soon as possible.

Both noble Lords asked about confidence in enforcement. This is important—there is no point putting anything in place if you cannot enforce it and ensure that it is done. The new powers in the Building Safety Act will give building control bodies greater powers to enforce the requirements of the building regulations, including the materials banned by this instrument. They also include greater penalties for breaching the regulations. I will write to the noble Baroness in more detail to make sure that she is confident on the enforcement and copy it to the noble Lord, Lord Stunell.

In closing, I thank the noble Baroness for raising this matter and both noble Lords for their thoughtful contributions to this debate. Underpinning the Government's work on building safety is a steadfast commitment to honour the memory of the 72 men, women and children who senselessly lost their lives at Grenfell.

I know that there is a shared desire across the House to ensure that people are safe, and feel safe, in their own homes. The Government will continue to build one of the most robust building safety regimes in the world; that is what we pledged to do, and through the Building Safety Act, the Fire Safety Act and the toughened building regulations we have discussed this evening, that is what we are delivering.

Baroness Hayman of Ullock (Lab): My Lords, I thank the Minister for her very considered response and her offer to write to me with more detail around the enforcement; that is very much appreciated. I also thank the noble Lord, Lord Stunell, for his support and the comments that he made. He asked a very important question about the building safety regulator and the advisory committee, which the Minister responded to, but 2024 to me seems like quite a long time away still, so I wonder why it is taking so long—perhaps that is something we can pick up on on another occasion.

I appreciate that this statutory instrument applies to new-builds. I think one of the reasons I tabled the Motion is that it is disappointing that that is all it does. As I said before, the problem with it applying only to new buildings, and existing buildings that are being regulated, is that it still leaves a significant number of buildings that are not currently covered. I am aware of the Building Safety Act; as the noble Baroness said, we all worked together very constructively on that, and I thought we made excellent progress during the Bill's passage. But we need to make sure that buildings that are already built and that are unlikely to be refurbished any time soon are not forgotten about and left behind; that is our big concern. We will continue to work with the Government on this and carefully monitor progress that is being made, but in the meantime I beg to withdraw.

Motion withdrawn.

8:32 pm

Sitting suspended.

Schools Bill [HL]

Report (1st Day) (Continued)

8.52 pm

Amendment 62

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

62: After Clause 46, insert the following new Clause—

"Funding for specialist education services for children and young people with sensory impairment

(1) An English local authority must secure that provision of specialist education services to children and young people with sensory impairment and their parents is sufficient to facilitate the development of the child or young person with sensory impairment and to help him or her achieve the best possible educational and other outcomes.

(2) Specialist education services include support to the parent of a child with sensory impairment, following the point of identification of any sensory impairment.

(3) The Secretary of State must ensure that funding to local authorities for provision of services under this section is sufficient.

(4) In discharging their duty under subsection (1), a local authority must have regard to the special educational needs and disability code of practice and any other guidance given from time to time by the Secretary of State."

Member's explanatory statement

This amendment seeks to introduce a new duty for local authorities and the Secretary of State to ensure there is sufficient funding for specialist education services for children and young people with sensory impairments in line with the special educational needs and disability code of practice under the Children and Families Act 2014.

Lord Hunt of Kings Heath (Lab): My Lords, I am very grateful to the National Deaf Children's Society for its support on this amendment.

I said in Committee that the Bill requires improvements if the Government are to meet their ambitions around inclusion for children with SEND. I still feel that very much to be the case. It will also still need improvement if the Government are to reach the target that they have set for 90% of children to achieve expected outcomes in reading, writing and maths by 2030.

In Committee, the noble Baroness, Lady Penn, rightly highlighted the existing duties of local authorities to ensure that appropriate support is available to meet the needs of children and young people with sensory impairment, as they do for all children with special educational needs. We did not hear in Committee how those local authorities' duties will fit with the changed educational landscape that the Bill and other changes in the schools White Paper and SEND Green Paper proposes.

Focusing on the flexibility that they have on how they use high-needs funding to meet those needs misses a vital point: around 78% of school-age deaf children are attending mainstream schools, and the vast majority of them do not have an education, health and care plan. The support for these children is not cast in stone in a legally binding EHCP. It is very much coming under local authorities' general duties under the Children and Families Act 2014 and the SEND code of practice, for all children with special educational needs who do not meet the criteria for EHCPs. Those children without EHCPs do not automatically receive top-up funding from the high-needs funding allocation. The help that these children receive will be funded by a mix from within the school's notional SEN budget and outside support services, which are usually provided and funded by the local authority.

With budgets stretched and higher needs funding having to provide for more EHCPs and more specialist claimants, it is this support to mainstream schools which has been cut back and sadly has resulted in them often being totally lacking. For instance, there has been a 17% decline in the number of teachers of the deaf since 2011, a trend which shows no signs of being turned around. We surely need to reverse that trend if the Government are going to meet the aims of inclusion and keep more SEND children in mainstream schools.

I think many will rightly view this new clause as very much part of a wider debate as to how we are going to ensure these services are delivered and who will pay for and provide the specialist roles, such as teachers of the deaf, who support schools, teachers and children. Nothing in the Bill, in the schools White Paper or in the SEND Green Paper protects or enhances these services which are critical for mainstream inclusion. That is why I feel a special duty is required for local authorities and the Secretary of State to ensure there is sufficient funding for specialist educational services for children and young people with sensory impairments.

The Special Educational Consortium supports the amendment because of its concerns about the funding of specialist support services for children and young people with a sensory impairment; 42 organisations have indicated their support for this amendment. The erosion of funding for specialist support services surely needs to be halted and services need to be restored to ensure that children get the support they need to enable them to learn and make good progress. I beg to move my amendment.

The Deputy Speaker (Baroness Morris of Bolton) (Con): The noble Baroness, Lady Brinton, is taking part remotely, and I invite her to speak.

Baroness Brinton (LD) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Hunt. I completely agree with his Amendment 62 on the high needs budget for children with special educational needs. I have signed Amendment 63 in the name of my noble friend Lord Storey, on financial assistance for purposes related to mental health provision in schools, and have laid Amendment 107 in this group on pupils with medical conditions.

I start by thanking the Minister for the various meetings she has held with noble Lords. The fact that this Bill is so heavily contested has required considerable discussion, and I suspect that the stamina of the Minister and her officials has been somewhat tested by a lot of very quick turnaround meetings. The Government have made some concessions, which has also been very helpful.

On Amendment 63, I hope the Minister has something positive to say. In Committee it really was noticeable that almost all parts of your Lordships' House, Ministers included, agreed that ensuring appropriate mental health

[Baroness Brinton]
support was available for children in schools was vital, especially after the surveys showing that their general mental health condition has worsened as a result of the pandemic. The problem is that mental health support will not appear from any magic money tree, so we argue in this amendment that there must be a duty for the funding of said mental health provision. I look forward to hearing my noble friend Lord Storey's slightly longer exposition of this amendment.

I turn now to Amendment 107 in my name and signed by my noble friend Lord Addington. It is important to explain why, under Section 100(1) of the Children and Families Act 2014—on the duty to support pupils with medical conditions—we need a duty that

"the appropriate authority for a school must follow the medical advice provided by an individual pupil's doctor".

When I raised this in Committee, the Minister replied:

"The department's statutory guidance on supporting pupils with medical conditions at school is clear that school staff, healthcare professionals and parents should work together to agree the support that a child needs in school to effectively manage their condition and take the best approach. That includes fully considering the advice of healthcare professionals, including doctors."

She went on:

"We believe the position in the guidance is quite clear that the needs of these children must be met, and it would be useful to talk through some of the specifics where the noble Baroness thinks that might not be happening."—[*Official Report*, 20/6/22; col. 64.]

I thank the Minister and her officials for the meeting yesterday morning. We did indeed spend some time debating the different publications of statutory guidance for pupils with medical conditions over the last eight years. I was hoping for a reply from the department following my forwarding of my original version to it, but unfortunately that has not happened.

9 pm

The difficulty is that the original version, published at the end of the Children and Families Act, was very clear that the relevant authority should follow the advice of a doctor. It is absolutely right, as the Minister said, that this should be a partnership with professionals, other healthcare professionals, school staff, the parents, and of course the children where appropriate. Indeed, the original version has an entire section that lists what schools must not do, because schools—whether heads, governing bodies or others—have not followed previous statutory guidance. Unfortunately, this section has been dropped from more recent editions of the statutory guidance.

Parents continue to be asked to come into school to give their child medicine or to join them on a school trip because the school cannot or will not provide support. That was explicit in the earlier editions. Worse, I heard recently from parents of a severely disabled child who required very specialist medication to be taken during the school day, who discovered that their child was being given complex medicines, by tube, by an untrained member of staff. Some parents are being fined because their children are out of school—more recently, for example, with long Covid, or because they are severely immunocompromised, perhaps because they have cancer, and their doctor says that while there are still Covid cases around it is literally not safe for them to go into school. Parents are being fined, despite what the hospital doctor or GP says. Schools say that children should be in school; schools are fining parents.

As an aside, the penalties for parents—in what I think are now Clauses 49 and 50—will be particularly difficult for this group of parents, who are already torn between medical advice for their child and the medical problems they face daily versus desperately trying to do the right thing for their child's schooling. All of this is despite the guidance, even in the current version, that:

"The governing body must ensure that arrangements are in place to support pupils with medical conditions. In doing so it should ensure that such children can access and enjoy the same opportunities at school as any other child."

The statutory guidance for pupils with medical conditions, as currently written, and even as it was originally drafted in 2015, is just not working, whether on pupil absence or pupils not being supported to have the same opportunities as other children. That is why many parents, already at the end of their tether, find themselves being penalised for their child's illness. This means that the one core element, the advice of the child's doctor, needs to be strengthened.

My amendment does this very simply—by putting it in the Bill. It cannot be diluted by officials without even consulting the sector. The medical charities involved in the original drafting tell me that not one of them has been consulted on more recent iterations of the guidance. I think, and fervently hope, that not one of us would want a pupil with a medical condition, whether disabled or not, to be treated less favourably than any other child—but it is happening today.

If the Minister thinks that the existing statutory guidance still covers all this, it is not getting through to school governing bodies and heads. I hope she offers a solution that means that it will, and I look forward to hearing her response. But if it means that children are given medicine, by tube, by an untrained member of staff, or that parents are fined because their child is out of school and a doctor has confirmed that they should not be in school, that is not sufficient, and we need something stronger.

Baroness Whitaker (Lab): My Lords, in supporting Amendment 62, I underline what an important need it fulfils. That is why such a large number of professional and charitable organisations also support it.

Many children with sensory impairments require a whole range of specialist education services, which need to be provided by healthcare professionals—for instance, speech and language therapists are needed, as many young children who have sensory impairments also have speech, language and communication needs. This includes those who are deaf, deafblind and visually impaired. Many come from areas of social disadvantage and start school with language difficulties. The life chances of all these children are severely curtailed.

I have some recent information where local data shows massive inequalities in accessing clinical speech and language therapy services during the last year and the year before. Digital is not enough; you need the actual professional people. Of course, I quote again that poor language outcomes are a significant determinant

of poor social mobility. I noted that when my noble friend Lord Watson moved an amendment about more help for young people whose sensory impairment is accompanied by speech, language and communication needs, his plea for extra support did not get any kind of response from the Government. It is absolutely vital that the specialist education services that are required to compensate for sensory impairment and to develop the spoken language and communication skills of all children and young people are going to be provided, so I urge the Government to accept this amendment.

Baroness Bennett of Manor Castle (GP): My Lords, I rise very briefly to offer Green group support for all these amendments. Most of them have already been powerfully covered. I particularly echo the points made by the noble Baroness, Lady Brinton. I am sure I am not the only noble Lord who has received very distressed and distressing emails from many parents who have found themselves in similar situations to the ones that she outlined where they know and have medical advice that says that it is unsafe for their children to go to school, yet they are still coming under extreme, undue pressure to put their children into an actively dangerous situation.

The structure of these things is that we have not yet heard the introduction to Amendments 114 and 115 in the names of the noble Baronesses, Lady Chapman and Lady Wilcox. In a sense, I want to continue a conversation with the Minister that I started on 29 March in the debate on the schools White Paper about mental health. These amendments particularly draw attention to the elements about how children's mental health is affected by their schooling. I hope to hear a positive response from the Minister to both these amendments, which are about collecting essential information. I would like to hear a response from the Government that acknowledges that mental health in schools is an issue that cannot be addressed by simply saying, "We're going to increase the exam marks" because that focus on exam marks is very much part of the problem.

Baroness Fox of Buckley (Non-Afl): My Lords, I am very sympathetic to Amendments 62 and 107. I have spoken several times about mental health and I want to oppose Amendments 63, 114 and 115 on mental health provision. One concern I have is about the focus on creating a duty on the Secretary of State for Education to give financial assistance to set up consultations and reporting mechanisms on mental health and well-being. I do not think it is the job of the Education Minister to have this role, and this focus could well incentivise schools to focus too much on mental health. It is inappropriate for schools to prioritise mental health issues, and it muddles the responsibility of schools and the NHS and CAMHS. I would like to see more done for young people by the NHS, and I am trying to separate those things out.

My main point remains, as I have argued before, that if adults in schools continue to focus on mental health, there is a danger that young people will see the undoubted challenges of growing up—whether they are the agonies, anxieties and confusions of being a child going through puberty and what have you or the stresses and strains of facing exams and being educated—through the prism of mental health. We should be reassuring young people about the challenges and that they are perfectly all right. I worry that we are in danger of pathologising them.

I worry about a fait accompli situation. That point was emphasised by a recent report. Since we last discussed this issue, a shocking revelation has emerged, based on an Answer to a Question tabled in this House by the noble Marquess, Lord Lothian, which revealed that children under 18 are being prescribed record levels of anti-depressant drugs, a 57% increase over the last four years, and noted that among five to 12 year-olds the prescription of anti-depressant drugs has gone up 40%. That situation could refute everything that I have said—it could mean that there was an exponential growth of mental health problems among the young—but psychiatric experts and psychologists have responded to it by saying the figures are staggering and dangerous. Professor Sami Timimi calls them a generation pathologised by adults steering the young towards medical diagnosis that is not appropriate, and says that itself then leads to treatment that is often pharmacological.

This medicalisation can of course have a catastrophic impact on the young. Another expert, Professor Spada, talks about the dangers of that, saying that adult neuroses about the young will lead them on to taking drugs that are highly addictive and will create a dependency. I think there is a real warning here that we should not just say "There is a growth in mental health problems" and let it run its course. I also think that the young themselves can then develop dependency not just on drugs but on the therapeutic labels that we have given them and been socialising them into during their school years.

The amendment uses an odd phrase, which has just been referred to, which is to explore how children's mental health is "affected by … their schooling", which I thought sounded rather accusatory or even a bit conspiratorial. That is especially ironic when we have ample evidence that it was the lack of schooling in the lockdown, combined with fear-based messaging over the last couple of years, that seems to have done a huge amount of psychological damage. I urge the Committee not to put this into law. If anything, I would like to have a more open discussion about the real problem of mental health and what it emanates from.

Finally, I am glad to see that Ofsted has been removed from the equation—it was in earlier amendments—but I still dread that the Secretary of State is being told to publish a report on the actions taken by schools to improve mental health. That will inevitably distract from the core purpose, which is indeed about the minds of young people but it should be about improving their minds educationally, not playing amateur psychology or psychiatry in the classroom.

The Lord Bishop of Durham: My Lords, I support Amendments 114 and 115. I recognise that the noble Baroness, Lady Fox of Buckley, has made some very helpful points about the danger of pathologising and the need for collaboration between education and health, although she put it rather more as an either/or while I would want to see it more as a both/and.

I particularly thank the noble Baronesses, Lady Chapman of Darlington and Lady Wilcox of Newport, for proposed new paragraph (c) in

[The Lord Bishop of Durham]
Amendment 115. The noble Baroness, Lady Chapman, and I could give the Committee a very good example of the work in local schools by the Darlington Area Churches Youth Ministry, which is outstanding when it comes to young people's mental health and mental well-being. It is a voluntary charity that works in collaboration with schools. I am delighted that that was included.

While I acknowledge some of the concerns of the noble Baroness, Lady Fox, I think these amendments are well thought through and would be of value.

Lord Lucas (Con): My Lords, I encourage the Government to look in the directions that Amendment 63 is looking in. Generally, having a school counsellor is very positive: it adds a lot to the spirit, education and good running of a school because it deals with those people who, left to themselves, would generate a lot of unhappiness in the structure.

To my mind, a school counsellor is generally enough, someone that you know you can go and talk to, but that counsellor has to be supported in two ways. First, they have to be supported by the whole culture and structure of the school. Everyone has to know that they are able to speak to them. There has to be an open structure of communication through to the counsellor so that information flows in, and everyone is aware that that person is there to help.

9.15 pm

Secondly, the counsellor needs a good connection out to mental health services, when they hit something that is beyond their ken. In that context, I am quite encouraged by what the Office for Students announced recently about collaboration with the mental health services. By putting a budget in and saying "Here's 15 million quid", it seems to have got a level of collaboration that the health service had not been able to deliver in the 10 or 15 years it has been looking at this problem. I am a fan of the Office for Students as it is at the moment; I think it points the way. If the Government will combine a flow of funds with an insistence on research and the development of good practice, we might find something worthwhile in the direction of Amendment 63.

Lord Addington (LD): My Lords, starting with Amendment 62, it was one of those amendment where I proved, once again, to myself that I could not be in two places at once and came in halfway through last time. It is one of those amendments where I am unhappy about the fact that it needed to be moved. It is a group of lobbies, effectively, coming together saying the system does not work and that we have not got round to fixing it. I know the Minister will tell me, when she replies, that there is a review looking into special educational needs at the moment, but will she take on board and feed back that we actually have a postcode lottery about where there is support and where there is not? There is no arguing about this: it just is. If it were possible to transform the circumstances from the good authorities to the bad ones, that would be fine and we would have much less of a problem.

Something else that the noble Lord, Lord Hunt, has picked up on is that, unless people have an EHC plan, the chances of their getting help are so much more reduced. When we passed the Children and Families Act 2014, we assumed there would be a gradated approach of support and the EHC plans would be reduced compared with the number of statements. This has not happened, because we have identified more problems. There was a gross underidentification—this much we do know—probably not in these particular groups because most people can spot if someone cannot hear or see, but with other problems it is more difficult. Without an EHC plan, it is a struggle, and if people fall behind, they have higher needs and they go to the lawyers. One thing that should be borne in mind with this amendment is that we are in an environment where one of the greatest growth departments in the legal profession is people dealing with the educational system to get support. That says, clearer than anything else I can think of, that there has been a failure. I was on the Committee of that Bill and I did not see it coming, but it has happened.

We need some indication of how better allocation of support will come. This is not a big argument about "Are they or aren't they?" or whether we need a heavy diagnosis of things such as dyslexia, dyspraxia, attention deficit disorder or the rest of them. It is something that is comparatively easy to spot, so I would hope we can get some idea what the Government's thinking is. I appreciate that the review is still going on, but if we can get some kind of idea of what they are thinking about on these conditions, it should take some of the pressure off.

My noble friend Lady Brinton's amendment, once again, goes back to the Children and Families Act 2014 and is something of a no-brainer in my opinion. If someone with medical training such as a doctor—a specialist doctor, often—says "Don't do it: it will be detrimental to their health or difficult" and then someone in the Department for Education says, "But we want to do something else", I am sorry, but health comes first. Children cannot learn if they are unhealthy, or if they are struggling with their health or if they are worried about it. That much we have proven. It is essential that we bring into the Bill some way to give greater clarification that, when a medical need is identified, the school or education environment must react correctly—that is agreeing with it unless they have very good grounds. If noble Lords can think of some examples of where this would happen, or where a school might have that capacity, I am all ears.

On the general area of mental health, having talked about some of the other issues here in special educational needs et cetera, we know that stress enhances mental health conditions. Let us face it: schools now are expected to pass more, and Governments of all sides have encouraged that. Anybody struggling with that process is immediately under stress, so it is not that surprising if we are discovering that many more stresses or mental health conditions—and we do spot them now. We are looking for them and if you look for things, you find them.

If you want to find an environment where people have incredibly low attainment and very high mental health needs, look into a prison system: the scholars of

the group will have left school at 14 and virtually none will have secondary education. That is often because they cannot cope with it or are not succeeding, or it may be because of their background. I might be going to the worst-case scenario early, but it hones minds on to these areas. We need to get in and spot this.

If some financial support is found here or from government generally, that may well help with money in the long term, because departments should work together. They find it incredibly difficult to do it because there are Chinese walls. Everybody says, "We're going to have a committee that works together." Two Ministers meet once in a blue moon, then forget about it and find another priority so as to avoid it; that is the experience many Ministers have described to me, not just in education or health. If we do not get some better way of giving some active support, we are going to miss these problems and they will become acute later on.

I look forward to hearing what the noble Baroness, Lady Penn, is going to say on this group, but these issues are ongoing. I would hope, on Amendment 107, that the Minister will simply tell us how it is to be better done. I understand that the others have a more complicated web of interaction, but I hope that we will get some positive guidance—or see the way that the Government's minds are working, or were at least working a few weeks ago.

Baroness Wilcox of Newport (Lab): My Lords, this is my first opportunity at the Dispatch Box after the vote we took last week on changing the hours of the House of Lords. I am so glad to see that all those people who were so clear about staying after the dinner break are here—not.

Good mental health is fundamental to be able to thrive in life. I spoke in Committee about the experience of growing up with a dearly loved mother who suffered so wretchedly from mental illness and the limiting effects it had upon her quality of life. She was extremely proud of my achievements but could never fully engage in them, due to the debilitating effects of her condition.

Current research shows that 50% of mental health problems are established by the age of 14 and that 75% are established by the age of 24. Young people in the UK today are dealing with high levels of stress, due to a variety of issues. The DfE's annual report *State of the Nation 2021* noted that reductions in average levels of well-being occurred most clearly in February 2021, when schools were closed to the majority of children, before recovering towards the end of the academic year.

In this context, we have therefore introduced two amendments. First, Amendment 114 would compel the Secretary of State, whoever he or she may be, to consult on the current provision in place to support children's mental health and well-being in schools. Our second amendment, Amendment 115, would compel the Secretary of State to publish an annual report on: how the mental health of children in academies and maintained schools in England affects, and is affected by, their schooling; actions being taken by schools to improve pupil mental health; and the extent to which schools are working with local National Health Service and voluntary and community sector providers, as noted by the right reverend Prelate the Bishop of Durham.

I have previously drawn your Lordships' attention to the fact that mental health is not mentioned in the Bill. We have debated over many days and have made—people who have been here for years tell me—gigantic changes to this Bill by comparison. We have debated school structures, while one in six of those aged between six and 16 have a probable mental health issue. This is a priority area for Labour. We would guarantee mental health treatment for all who need it within a month and hire at least 8,500 new mental health professionals. But a creaking National Health Service cannot do this alone.

The focus should be on prevention. Schools play a vital role in this area with a maintenance of general welfare and resilience throughout a child's time in education, rather than acting only at times of crisis when it is too late. It is an acute crisis, and recognising that is an essential tool to learning and welfare. We need to intimately understand the drivers of the problem and give targeted support to tackle it. Both Labour amendments are urgently needed.

Baroness Penn (Con): I will start by responding to Amendment 62 and thank the noble Lord, Lord Hunt, for this amendment. As he said, we have previously discussed these issues in Committee. As he knows, local authorities have existing duties to identify children and young people in their area who have special educational needs or disabilities—SEND—and to work with other agencies to keep under review the adequacy of provision available to meet their needs. The department supports local authorities in doing so.

I acknowledge the points the noble Lord made, but they are best addressed by our wider reforms to the SEND system. I reiterate that high needs funding is increasing by £1 billion in the current financial year to a total of £9.1 billion. Local authorities have flexibility in how this funding is used, particularly and including to support those with sensory impairments. Separately, pupils with additional needs also attract additional funding through the schools national funding formula, which includes proxy factors for SEND. I reassure him that this will continue under the direct national funding formula. This additional needs funding equates to £6.6 billion in 2022-23 and is not dependent on whether a child has an education, health and care plan. I take the noble Lord's point about those who may have sensory needs not having education, health and care plans, but there is also additional needs funding in place that is not dependent on those plans being in place.

As the noble Lord, Lord Addington, referenced, the Government recently published their SEND and alternative provision Green Paper, setting out ambitious proposals to improve the experiences and outcomes of children and young people with SEND. He referred to a postcode lottery, and he will know that the Green Paper includes a proposal to introduce national standards for how needs should be identified, assessed and reviewed, as well as the support that should be available for children and young people with SEND, including those with sensory impairments. That is currently out for consultation until 22 July, and we do not want to pre-empt the response.

[Baroness Penn]

The noble Lord talked about the litigiousness of the current system, and I agree with him. One of the aims of our reforms is to address that by having clear expectations across the country for parents and children. We hope to reduce that side of the system and take things forward in a more collaborative way.

Turning to Amendment 63, I am grateful to the noble Lords, Lord Storey, and the noble Baroness, Lady Brinton, for their amendment on statutory funding for mental health support in schools. Schools can play a vital role in supporting young people's mental health. However, as we have discussed previously, tackling this issue cannot be the responsibility of schools alone, and it is not a school's job to provide specific or specialist treatment interventions.

9.30 pm

Access to specialist support is vital. In February, NHS England and NHS Improvement published the outcomes of a consultation on introducing five new access and waiting time standards for mental health services. This includes a standard for children, young people and their families or carers presenting to community-based mental health services to start receiving care within four weeks of their referral. Those waiting times are backed by record investment of an extra £2.3 billion a year through the *NHS Long Term Plan*. This includes education mental health practitioners, mentioned in the amendment, who are employed by the NHS to staff mental health support teams. I absolutely agree with noble Lords who said that this needs to be a collaborative effort. It cannot be solved by just the NHS or the education system; we need to work across different points of intervention.

Noble Lords have also said that many children do not need specialist support. Schools can use their funding, including the recovery premium, to provide the pastoral support they need, which can include counselling, where appropriate. Place2Be was mentioned in previous debates and is a good example of how to embed counselling support in the life of a school. But we remain of the view that we should leave schools free to judge what approaches suit their circumstances, including those focused on prevention.

I am grateful to the noble Baronesses, Lady Chapman and Lady Wilcox, for Amendments 114 and 115, concerning consultation, assessment and reporting on the issue of mental health in schools. As I said, we cannot consider schools in isolation, and I reassure both noble Baronesses that we are taking a joined-up, evidence-based approach to future policy. The Department of Health and Social Care just held a call for evidence, which closed earlier this month, to inform the development of a long-term, cross-government mental health plan, which will encompass prevention and treatment and how sectors, including education, can work together to support this. We also already gather and assess a range of data on children and young people's mental health to inform policy, and we publish this in our annual *State of the Nation* report.

We take a similarly joined-up approach to health in our practical programme of support for schools on pupil mental health, training senior leads to put in place whole-school and college approaches, and funding mental health support teams to support pupils and staff and make links with specialist services. The key thing is that we evaluate whether this programme is making a difference in practice. An interim report of the independent evaluation of the initial trailblazer phase of mental health support teams was published last year, and the final report will be published later this year. In addition, the National Institute for Health and Care Research is commissioning a large-scale impact evaluation, due to start in spring next year.

We agree wholeheartedly with the House about the importance of children and young people's mental health and the crucial role that schools can play. As the right reverend Prelate said, this is not an either/or but an and/both. We are providing extensive support and evaluating whether it is working.

I acknowledge what the noble Baroness, Lady Wilcox, said about mental health not featuring in the Bill—both noble Baronesses have said this during our proceedings. But we always have to ask ourselves whether legislation is the right answer to the important problems that we seek to address. Obviously, amendments can provide the opportunity to debate and probe, but I hope I have set out that the Government take this issue seriously and have a programme of action in place. It does not feature in the Bill because it is not necessarily the most effective avenue the Government have to ensure that people get the support they need and that this is based on the right evidence, as has been debated.

Finally, I thank the noble Baroness, Lady Brinton, for Amendment 107, and apologise for not being able to join the meeting that I know she had on this issue. As I set out in Committee, while we agree with the intention of this amendment, we still hold that the effects of the amendment are already covered by the Children and Families Act 2014, which requires schools to make arrangements to support pupils with medical conditions. Since 2014, the department's statutory guidance on supporting pupils with medical conditions at school has made it clear that school staff, healthcare professionals and parents should all work together to agree the support that a child needs in school to effectively manage their condition. The guidance also states that it is not generally acceptable to ignore medical advice. We therefore expect schools to receive and fully consider the advice of healthcare professionals when making arrangements to support pupils with medical conditions. Were a head teacher to entirely disregard the advice received, they would likely be acting unreasonably, and the school may be in breach of its duty.

I say to the noble Baroness that we have received the version of the guidance provided by her. It was dated April 2014 and published to assist with the implementation of the Act in September 2014. The summary section states that the

"document contains both statutory guidance and non-statutory" guidance. It states:

"Statutory guidance is set out in bold text".

The same text is included in the version of the guidance published in September 2014. When the guidance was updated in December 2015, the summary section was revised with non-statutory guidance presented in text boxes. The intention of this change was to make the

distinction between statutory guidance and non-statutory guidance clearer, but this did not change the relevant content; it is the same in all three versions.

I thank noble Lords once again for raising the issues within this debate. I hope that the noble Lord, Lord Hunt, feels able to withdraw his Amendment 62, and that other noble Lords will not move theirs.

Lord Hunt of Kings Heath (Lab): My Lords, I am grateful to the Minister for a very full response. On my Amendment 62, I noted with interest what she had to say. There were two key points: first, that you do not need statutory change because local authorities already have existing duties and, secondly, that the issue about EHC plans can be overcome, because the additional funding is not dependent on those plans—I understand that. The problem we have is that, at the moment, local authorities are not really following the duties they are expected to carry out, mainly because they just do not have the resources to do it. One way or another, this must be tackled, and for parliamentarians, the law is the way we do this—through amendments like these. It is very frustrating if the response is, "You don't need to change the law because local authorities already have the existing duties", when we all know that local authorities are failing to provide the necessary support.

There was a fascinating debate on the other amendments. In a sense, I agree with what the noble Baroness, Lady Fox, said about this issue regarding the number of young people receiving anti-depressants, which is pretty frightening. I accept that it is unfair to place all responsibility on schools. This is rather like the police force; so many of its issues are mental health issues. Clearly we need the health service to step up to the plate. Again, the Minister referred to additional resources going in and an access target, but the NHS has an awfully long way to go to provide the kind of mental health support needed, particularly for young people. We all know the frustrations for parents and young people in getting access to NHS services and the long waits they often have to suffer. On the other hand, schools could be more sympathetic to parents when their children have mental health issues. On Monday, we will come back to the issues of school attendance and home-educated children. When you talk to parents, a recurring reason that they are home educating their children is because their children have mental health challenges to which the school is utterly unsympathetic. This is the issue we will continually come back to.

This will only be achieved through partnership. The noble Baroness, Lady Penn, knows all about the Health and Care Act and integrated care partnerships. I still think we need to get schools around that table to get a much more concerted approach at local level to resolve some of these very difficult issues; parents and children are often at the end of their tether in seeking support where it is not forthcoming. Having said that, I thought it was a really valuable debate and I beg leave to withdraw my amendment.

Amendment 62 withdrawn.

Amendment 63 not moved.

Amendment 64

Moved by ***Lord Shipley***

64: After Clause 46, insert the following new Clause—

"Creation and funding of careers programme for primary schools in areas of disadvantage

(1) The Secretary of State must work with sector experts to develop a framework for careers education in primary schools that is aligned with the eight Gatsby benchmarks.

(2) The Secretary of State must provide financial assistance to support the delivery of a careers programme for primary schools in areas of disadvantage.

(3) In this section—

"areas of disadvantage" include areas with primary schools with the top 10% proportion of pupils with free school meal eligibility;

"the eight Gatsby benchmarks" means the benchmarks set out in the report "Good Career Guidance" published by the Gatsby charitable foundation in 2014."

Member's explanatory statement

This amendment requires the Secretary of State to create a framework for careers education in primary schools and to give financial assistance to primary schools in areas of disadvantage to deliver the programme.

Lord Shipley (LD): My Lords, Amendment 64 would require the Secretary of State to create a framework for careers education in primary schools and to give financial assistance to primary schools in areas of disadvantage to deliver the programme. We did effectively discuss this amendment in Committee three weeks ago, on 20 June, and in her reply the Minister said that the Government did in fact want to do this and would announce details in due course. I am delighted that, last week, the Department for Education issued a tender for the delivery of a programme for careers provision in primary schools in areas of disadvantage. I just want to acknowledge that; it is a most welcome development.

As we said in Committee, this is an issue of social mobility; it is about levelling up; it is about widening children's and young people's horizons. There is so much evidence that shows that if you start talking about careers guidance only at secondary school, it can be too late for some, because some children, at the age of seven, have already formed life-defining decisions about the kinds of careers they aspire to. I do not wish to take any more of the House's time but I just acknowledge that the Government have made a very helpful move with the issue of the tender. I shall be withdrawing the amendment, but for now, I beg to move.

Baroness Fox of Buckley (Non-Afl): My Lords, I want to raise some quick reservations about Amendments 64, 112 and 113. I apologise that I did not speak on this before: it was always grouped with other things that I was speaking on. I absolutely understand the sentiment behind improving careers education; I just want to get some clarification on the focus of these amendments.

One real worry for me over recent years has been the constant instrumentalisation of education for non-educational outcomes—schools are always asked to solve economic, social and cultural problems. Even though

[Baroness Fox of Buckley]
performance at school can of course be related to job prospects, I am worried that a utilitarian approach to school as a means to gain employment seems far too narrow and can backfire. I would like some reassurance that a focus on careers education will not lead to that.

As a teacher for many years, years ago, I always found it very dispiriting when pupils and students adopted a rather philistine attitude and would say things like, "What's the point of studying Jane Austen or Shakespeare? It won't get me a job." Knowledge for its own sake was always sneered at, and that is perfectly understandable; they were teenagers, and it was a battle one had in the classroom. The argument was always, "Why don't you teach us relevant, useful skills that will help me earn some money—not all this guff?" I just want to ensure that we do not inadvertently encourage that kind of philistinism here. I suppose I am wary that too much focus on careers education can chip away at the importance of what is a young person's entitlement, even if they do not thank you at the time, to the best of what is known and thought, regardless of whether the students appreciate why it is important, or even if it is totally useless for job acquisition.

In that context, I worry about the proposed mandatory work experience of 10 days in one of the amendments, when there is so much to teach the young. I also notice the amendments focusing on primary schools. Although it has just been explained why—that by seven, perhaps you are already fixed in life—I am less deterministic. For primary school pupils in particular, it is a time for dreaming, imagination and a notion that the world is one's oyster—that you can be anything—and I am concerned about bringing them down to earth with a mighty bump if we send them off on careers skills education.

9.45 pm

I am particularly concerned that the objective of this primary school careers education in one of the amendments is:

"age-appropriate and evidence-based career-related learning."

My heart sank at that, but it goes on:

"preventing children developing biases about different sectors and career paths, such as those based on gender, race and other protected characteristics."

That sounds far too much like social engineering. I fear it could be divisive and inadvertently end up making young children far too self-conscious of caricatured views of what type of people end up doing different jobs. That might not be the end result, but it could be a minefield for teachers and inadvertently introduce stereotypes into the classroom about who works in what profession based on their characteristics. I would let them dream, play and be imaginative and leave the careers until later.

Lord Storey (LD): My Lords, briefly, I do not know whether the noble Baroness, Lady Fox, taught in a primary school, but social engineering is not a phrase I would associate with them; I would associate imagination, sponges sucking up knowledge and getting excited about things, but not social engineering.

I want to raise another issue on mandatory work experience. The UK shared prosperity fund is a fund of £2.6 billion to develop people and skills. It also trains people to help with careers development. It is managed through the combined mayoral authorities and is for the next three years. I am a little disappointed that there is continuity in the fund for Wales, Scotland and Northern Ireland but in England it has ground to a shuddering halt. We have been told that the money cannot be spent until 2024-25. Can the Minister explain why? That will have repercussions for those who were employed to work on these areas.

The Lord Bishop of Durham: My Lords, I spoke in favour of similar amendments in Committee and will do so again. I will ask the noble Baronesses, Lady Chapman and Lady Wilcox, the same question as last time, as I did not get an answer. Proposed new subsection (1) in Amendment 113 says "all schools", so can I presume that means primary as well as secondary schools? I am not sure what work experience looks like over 10 days of primary school; my understanding of

"a minimum of 10 school days overall"

would be over the period of life in that primary or secondary school. There is a lack of clarity there.

The noble Baroness, Lady Fox, and I are largely in agreement on some things this evening. I am absolutely with her on imagining, dreaming and so on, but I read the clause completely the opposite way around. I think it says, "Imagine what you can be, whatever your background". The problem at the moment is that too many children do not think they can.

I had not heard the extremely good news that the noble Lord, Lord Shipley, shared. It is very welcome, so I thank the Minister.

Baroness Chapman of Darlington (Lab): In reply to the right reverend Prelate the Bishop of Durham, obviously we are talking about secondary schools. That should be in the amendment, and I am very pleased to have the opportunity to clear that up. We were not intending to suggest that there should be a minimum of 10 days' work experience for primary school pupils, although they might have an awful lot of fun going out into the workplace.

On the issues highlighted by the noble Baroness, Lady Fox, in Amendment 112, I enjoy the way she draws our attention to these things, but this time, I do not know whether she has the wrong end of the stick, I am being deliberately obtuse, or this is just a very boringly written amendment—if there is a zippier way of doing it, that would be fine—but this is all about awakening imagination.

My dad was a nurse, and I remember being at school, and saying this to my classmates when I was asked, and people laughing. I am sure that that does not happen anymore—this was the early 1980s—but too many people are still limiting their own possibilities because of a lack of awareness. There is plenty of evidence that career-based learning, as we are calling it here, or career-related learning, is not the same as careers advice, being asked to make decisions or eliminating options at a very early age. This is about awakening young children to all the amazing possibilities that

exist, and whether that be in the arts or science or whatever, it is about broadening opportunities, not narrowing them.

On Amendment 113 we were challenged about work experience and the minimum of 10 days. To be clear, that does not have to be 10 days in one block. There are lots of innovative schemes now where people are going out for half a day a week, or where they start work experience younger in their school life and build up relationships with employers as appropriate. There are lots of ways of doing this now. What we find is that young people who are maybe more advantaged—whose parents have connections and whose schools have really good partnerships—get great experience. It benefits them when they are making important decisions about what to study and the choices that they make in the future. It also benefits them through exposure to ways of behaving in different workplaces. We find that less-advantaged young people do not, as often, get the benefit of that experience. Unless we make it a requirement or an entitlement, my fear is that this inequality will persist. This is something that can help; it is a contribution towards social justice and reducing inequality. We are totally committed to the provision of careers-related learning, however that might be done. It must not be dull—and I take the warnings of the noble Baroness, Lady Fox, to heart here.

I highlight the second part of Amendment 113, which talks about looked-after children—I thought I might get asked about that actually, and I want to explain why it is there. I have felt for some time that local authorities are missing a trick in their corporate parenting role. Every young person I know who has parents who have got their own business is able to take advantage of work experience in that business, and other young people might make use of their parents' contacts to secure opportunities. Looked-after children, whose corporate parent is the local authority, are too often unable to take advantage of opportunities to experience work in a council or other local public body. I think we can build on the good work that some local authorities are doing to fulfil that parenting responsibility, which most other parents try their best to do. There is a lot more that could be done. Some good work is happening, and it would be good if the Minister could commit to looking into that, and figure out whether that is something that the Government might want to encourage, so that we can see more of our looked-after children benefit from it.

Lord Lucas (Con): My Lords, that is a really good suggestion, and I sense that the House is at one on what we are doing here.

I did my work experience down a coal mine—I think that broadened my experience a good deal, as a boy from Eton. One of my work shadows from Yorkshire was, until recently, a government Minister, so respect to him for getting there and also for not being there.

Work experience is a real mind-opener for people. When, under the guidance of the noble Lord, Lord Bassam, we did the report on seaside towns, one of the things we noticed all the way round the country was not a poverty of ambition in young people in seaside towns but a poverty of belief. All they saw was what was around them, and they did not believe that anything else was possible. To give them work experience outside that, and to bring in at primary level people who represent careers that are not obviously open to them, would be wonderful.

It is wonderful to do work experience with primary school children; they are so open. They are interested, chatty and fascinated. There is none of the, "Oh, whatever" that you get at secondary schools. Children's minds are so open at primary school. I am delighted that we are moving in this direction, and I encourage my noble friend to carry this forward to whoever is in charge of things in a month's time.

Baroness Barran (Con): I thank the noble Lord, Lord Shipley, and the noble Baronesses, Lady Garden, Lady Chapman and Lady Wilcox, for Amendments 64, 112 and 113, which raise the important topic of careers education in both primary and secondary schools.

I turn first to Amendments 64 and 112 regarding careers education in primary schools. The Government believe that careers education is essential to ensure that young people can make informed choices about their future learning and careers. To reassure the noble Baroness, Lady Fox, she will be aware that the Government have long stressed the need for a broad and balanced curriculum, so I hope that some of the breadth she described is recognised in the curriculum, as set out today.

I thank the noble Lord, Lord Shipley, for his warm welcome of the new grant funding that is now open for applications to deliver a programme of careers provision in disadvantaged primary schools. Having attempted to win round the noble Baroness, Lady Fox, I now know that I am going to lose her, because the programme will focus on three of the eight Gatsby benchmarks. I think one is exactly what the noble Baroness, Lady Chapman, was talking about, in linking curriculum learning to careers. But here is where I think it might go downhill: we are facilitating meaningful age-appropriate employer encounters—I feel the ground giving way beneath my feet—and providing opportunities to experience a variety of workplaces. It will be a chance to encourage children to raise their hope and belief, as my noble friend Lord Lucas described, and, we hope, help them overcome any lack of confidence that might hold them back. The programme will target support for schools in the 55 education investment areas announced in the levelling-up White Paper, where educational outcomes are currently weakest.

In addition, Amendment 112 requires every secondary school to provide professional, in-person careers advice. From September this year we will commence the Education (Careers Guidance in Schools) Act 2022, which extends the duty to provide independent careers guidance to all pupils in all types of state-funded secondary schools throughout their secondary education.

It is also the case that our statutory guidance makes clear that schools should deliver their careers programmes in line with the Gatsby benchmarks. Benchmark 8 is focused on the delivery of personal guidance and makes it clear that every pupil should have opportunities for guidance interviews with a careers adviser. In addition, we are funding the Careers & Enterprise Company

[Baroness Barran]
with £29 million during 2022-23 to help support schools and colleges to drive continuous improvement in the delivery of careers services for young people and to support it to deliver the Gatsby benchmarks.

Turning to Amendment 113, again I thank the noble Baronesses, Lady Chapman and Lady Wilcox. Our careers statutory guidance for secondary schools has a clear framework, based on meeting the expectations in the Gatsby benchmarks. It requires that schools offer work placement, work experience and other employer-based activities as part of their career strategy, and it makes clear that secondary schools should also offer every young person at least seven encounters with employers during their secondary education. Through the Careers & Enterprise Company, more than 300 cornerstone employers are working with career hubs to bring businesses together with local schools and colleges. In addition, the enterprise adviser network of about 3,750 business professionals is working with schools and colleges to help ensure young people are offered quality interactions with employers throughout their secondary education.

For looked-after children specifically, to which the noble Baroness, Lady Chapman, referred, each school and local authority's virtual school head has an important role to play in raising the aspirations of this group of young people, supporting them to think about their careers and prepare for adulthood. As the noble Baroness knows, each looked-after child should have a personal education plan, and local authorities have clear guidance that this should set out how a child's aspirations and self-confidence are being nurtured, especially considering long-term goals, such as work experience and career plans. I should be delighted to discuss that further with the noble Baroness; I very much share her aspiration, and I hope we can work together to support and create the best opportunities for looked-after children, in particular. With that, I ask the noble Lord, Lord Shipley, to withdraw his amendment.

Lord Shipley (LD): Before the Minister sits down, could she write to me—

Baroness Barran (Con): Yes, if I may, I shall write to the noble Lord about the shared prosperity fund in England.

Lord Shipley (LD): My Lords, I am very grateful for the Minister's reply and the further explanation that she has given of what the Government are planning. I place on record that that is most welcome and will be well received by those who will be directly involved in delivering it.

I just assure the noble Baroness, Lady Fox, that this is not about social engineering. It is not about just getting employment; it is about awakening young people's imagination; it is about social mobility; it is about raising aspirations. There is the evidence of the North East Ambition pilot, which has been part funded by Ernst & Young's EY Foundation. I see the right reverend Prelate the Bishop of Durham nodding his head, because much of that has occurred in County Durham. It has an impressive record. The engagement of the teaching staff in the primary schools there has been particularly marked. It has now produced a two-year review, and it is well worth reading if Members would like to do so. It explains what it is trying to do and how it is being done with parents and carers engaged. With that, I beg leave to withdraw the amendment.

Amendment 64 withdrawn.

Consideration on Report adjourned.

Draft Mental Health Bill

Message from the Commons

A message was brought from the Commons that they concur with the Lords message of 5 July that it is expedient that a Joint Committee of Lords and Commons be appointed to consider and report on the draft Mental Health Bill (CP 699) presented to both Houses on 27 June, and that they have ordered: that a Select Committee of six Members be appointed to join with a Committee appointed by the Lords to consider the draft Mental Health Bill. That the Committee should report by 16 December 2022. That the Committee shall have power: (i) to send for persons, papers and records; (ii) to sit notwithstanding any adjournment of the House; (iii) to report from time to time; (iv) to appoint specialist advisers; and (v) to adjourn from place to place within the United Kingdom. That the quorum of the committee shall be two; and that Rosena Allin-Khan, Marsha De Cordova, Jonathan Gullis, Dan Poulter, Ben Spencer and Sir Charles Walker be members of the Committee.

House adjourned at 10.03 pm.

Grand Committee

Tuesday 12 July 2022

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Lord Beith) (LD): My Lords, if there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Single-Use Plastics) Regulations 2022

Considered in Grand Committee

3.45 pm

Moved by ***Lord Goldsmith of Richmond Park***

That the Grand Committee do consider the United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Single-Use Plastics) Regulations 2022.

Relevant document: 5th Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, this instrument was laid in draft before this House on 9 June. It makes an exclusion from the market access principles of the UK Internal Market Act, or UKIM Act, for legislation so far as it prohibits the sale of single-use plastic straws, stemmed cotton buds, drinks stirrers, plates, cutlery or chopsticks, balloon sticks, food containers, drinks containers or cups made wholly or partly from expanded or extruded polystyrene. I will cover both the reasons for and the impact of this instrument, starting with the former.

This instrument is being brought forward following an agreement under the provisional Resources and Waste Common Framework. The exclusion made in the instrument is necessary because all four nations share an ambition to tackle plastic pollution. This instrument furthers that ambition while recognising the need to protect the integrity of the UK internal market against future barriers to intra-UK trade.

Legislation banning the sale of the single-use plastic items covered by this exclusion has been introduced, will be introduced or has been consulted on being introduced in all four nations. However, there is a difference in the timing of these bans, which means the UKIM Act has an impact on the ability to implement such legislation.

The UKIM Act contains two market access principles: mutual recognition and non-discrimination. The principle of mutual recognition introduced by the Act means that a good that can be lawfully sold in the part of the UK in which it has been produced, or into which it has been imported, may be sold in any other part of the UK without needing to comply with any relevant requirements applying to the sale in that other part of the UK. The principle of non-discrimination means that the sale of goods in one part of the UK should not be affected by directly or indirectly discriminatory relevant requirements towards goods that have a relevant connection with another part of the UK.

I will now briefly outline the impact of this statutory instrument. The exclusion from the market access principles created by it means that the principles will not apply to legislation so far as it prohibits the sale of single-use plastic straws, stemmed cotton buds, drinks stirrers, plates, cutlery or chopsticks, balloon sticks, food containers, drinks containers or cups made wholly or partly from expanded or extruded polystyrene. For example, from 1 June 2022 it has been illegal to sell a single-use plastic plate in Scotland. The exclusion introduced by this instrument will mean that single-use plastic plates produced in or imported into other parts of the UK cannot be sold in Scotland, regardless of whether there is an equivalent ban in place in other parts of the UK.

The requirement in Section 10(7) of the UKIM Act for the Secretary of State to have regard to the importance of facilitating the access to the market within GB of qualifying Northern Ireland goods has been considered. The supply of the items covered by this exclusion is banned in Scotland and the Welsh and UK Governments have consulted on banning the supply of these items where it is not already banned. The relevant EU directive—article 5 of the single-use plastics directive—under annexe 2 of the Northern Ireland protocol, once implemented, will have equivalent effect to the proposed and existing legislation in Scotland, England and Wales, with the exception that legislation in Scotland, England and Wales will not encompass items made from oxodegradable plastic. As such, it is not thought that there is a need to make additional or separate provision to maintain access to the market within Great Britain for these single-use plastic items.

A full impact assessment has not been prepared for this instrument because it does not impose any new requirements. This instrument will affect the application of the Environmental Protection (Single-use Plastic Products) (Scotland) Regulations 2021 and any forthcoming regulations in England and Wales that ban the supply of the items covered by the exclusion. Any impacts on those regulations have been considered in the case of the Scottish regulations and will be considered in the case of any forthcoming regulations in England and Wales. Ministers from the Welsh and Scottish Governments have consented to the making of these regulations.

The Secretary of State will publish a statement in accordance with Section 10(11) of the UKIM Act explaining why these regulations will be made without consent from the Department for the Economy in Northern Ireland. To summarise, as this legislation is of a cross-cutting nature, it would normally require referral to the Northern Ireland Executive as per Northern Ireland's Ministerial Code. This has obviously

[Lord Goldsmith of Richmond Park]
not been possible due to the ongoing absence of a First and Deputy First Minister in Northern Ireland, meaning the Executive cannot meet. My officials have however continued to engage at official level with the relevant Northern Ireland departments in the development of this legislation and there has been engagement with the Minister for Agriculture, Environment and Rural Affairs, Edwin Poots MLA, and the Minister for the Economy, Minister Lyons MLA, who have not raised any objections to the proposal.

The exclusion introduced by this instrument recognises our shared ambition across the UK to tackle plastic pollution while recognising the need to protect the integrity of the UK internal market against future barriers to intra-UK trade. I believe this shows that the process for considering UK Internal Market Act exclusions in common framework areas is working as intended. I commend these regulations to the Committee and I beg to move.

Baroness McIntosh of Pickering (Con): I welcome, for the most part, the instrument which is before us this afternoon. I have a number of questions to put to my noble friend.

First, there seems to be an obvious exclusion from the list that has been given: wet wipes. I am sure my noble friend will agree that wet wipes, although they are sold in a pack, are causing huge damage, and it is something that we have looked at in other statutory instruments. I am looking at a report called *Bricks and Mortar 3* about how to prevent flooding, and one of the issues that causes flooding, as we remember from debate on what became the Environment Act, is wet wipes mixing with fats, oils and grease in the water courses, causing flooding and a blockage in the system. I know we discussed cotton buds as well—I do not know whether they are here—but I would ask why cotton buds and wet wipes are not included since they do enormous damage.

I commend Scotland, which I see has already banned the sale of single-use plastic plates, and I wonder whether we are going to follow suit. My noble friend has said on a number of occasions that we are going to ban single-use plastics, and I was rather expecting a whole raft of statutory instruments in this regard. I know the noble Baroness, Lady Jones of Whitchurch, has held the Government's feet to the fire over this, and has never missed an opportunity to do so, but we have not seen any of those statutory instruments.

A report published today shows that 96.5 billion items of plastic are thrown away by UK households every year, and only 12% of that plastic is recycled. As to why there is such a low percentage, could my noble friend tell us what is happening while these items remain in circulation, in whichever part of the internal market of the United Kingdom we are talking about? When are we going to have clear advice to each household, irrespective of where in the country you live, as to how to dispose of single-use plastic? For example, if you had a single-use plastic plate at a picnic and it has tomato sauce or oil all over it, if you put that in a recycling bin, is it not the case that you are contaminating the whole content of the bin? So where are we today on ensuring that the best advice is being given across the piece, so that there is uniform advice, even if it is just in England—although I would prefer it to be across the whole of the internal market of the United Kingdom—to prevent cross-contamination leading to less plastic going to recycling than would otherwise be the case?

I understand that no exemption has been extended to the ban on the supply of single-use plastic items in the UK. If I am correct in my assumption that we are allowed to use these on board aircraft, that seems bizarre. Could my noble friend explain why that has been extended?

In so far as this seems to relate to non-discrimination and having the same rules of circulation apply, I welcome what is in the statutory instrument. I just regret that it does not go nearly as far as I would have hoped, and when might we get the other statutory instruments which we were promised under the Environment Act? I would welcome answers to my questions from my noble friend.

Lord Jones (Lab): My Lords, I thank the Minister for his efficient explanation. I too read the report to which the noble Baroness, Lady McIntosh, referred. I saw it in the *Times* and the *Daily Mail*.

In the helpful Explanatory Memorandum, reference is made in paragraph 13.1 to regulating small business. Has the Federation of Small Businesses been consulted? At this point it seems to be central, although I should say that I hold no personal brief for the FSB in any way.

Paragraphs 12.1 and 12.2 refer to impact. It is early days, but have Scotland and Wales yet set out their impact assessments? It is also clear that in all of this Scotland has been ahead of the game since June. Is there any intelligence yet as to how things are moving in Scotland? How was Scotland consulted? Was it simply by Zoom or was it between officials? Was it done personally by Ministers or was it done by phone? "Consultation" can mean many things.

Similarly, at paragraph 7.1, how was Wales consulted? To whom did the Minister talk? Did he talk to the Cabinet Minister for agriculture in the Senedd? If I may set him and his excellent officials in the department a challenge, can he tell me the name of the Welsh Minister for agriculture sitting in the Cabinet?

Baroness Jones of Moulsecoomb (GP): My Lords, I rise wearily to my feet on this issue of single-use plastics. I agree almost completely with my noble opponent, the noble Baroness, Lady McIntosh. She is absolutely right that this does not go far enough—of course it does not, we have been talking about this for decades. This statutory instrument is on the right path but is still nowhere near enough.

Where I disagree with the noble Baroness is on the fact that it is not only households but councils that need to know. As we have said lots of times before, we need one system across the whole of Britain. I was watching an episode of "The Outlaws", a comedy drama with Stephen Merchant, and in it a very large, angry drug dealer told off his lieutenant for putting a tomatoey pizza box in the recycling. I thought that

that was probably much more effective than government education. Even so, the Government have a role in educating. Still people still do not see—perhaps the Government themselves do not see—that most of the 8 billion tonnes of plastic produced since the 1950s is still in existence: in our drinking water, our soils, our animals, our fish and our air, and even, apparently, in our beer and, I suspect, our wine.

Every time we get a promise from government, it is inching towards what we need, which is a total ban on plastic. It seems that every time we get a small bit of progress, the Government pat themselves on the back and then take ages to get to the next bit of progress. For example, we used to have bottle deposit schemes. It is not as though we do not have the knowledge of how to implement these things. We can do it. We did it with an awful lot less technology 70 years ago, so why not do it now?

Of course, with a ban on all single-use plastic, we would get to the point where unnecessary items were not made at all. If you think that 40% of the plastic produced goes into single-use packaging, that is fairly shocking, even before you consider that the world total is more than 300 million tonnes each year.

It is exhausting to keep coming back to this issue. I am sure the Minister does his best, but I cannot say the same for the Government. I understand that they are struggling a bit at the moment to be coherent but, even so, I plead with them to do better—I am sure they could. We need to educate everybody in plastics pollution, including all the contenders for the leadership of the Tory Party, none of whom has mentioned the climate crisis or the environment. I suspect, therefore, that none of them will be interested in plastic pollution. So, I welcome this in a very limited and specific way.

4 pm

Lord Hope of Craighead (CB): My Lords, I very much welcome these regulations. I should explain that I am a member of the Common Frameworks Scrutiny Committee and it is in the light of my experience on that committee that I extend this welcome. I am delighted to see the noble Baroness, Lady Randerson, here with us, because she too is a member of that committee and will understand the points that I am about to make, although I have not discussed them with her.

The Explanatory Memorandum explains the position clearly. In his introduction, the Minister touched on these points. It is important to understand that these regulations have a specific and—unfortunately, from the point of view of the noble Baroness, Lady Jones of Moulsecoomb—rather limited purpose. As described in paragraph 7.1 of the memorandum, their purpose is to give effect to the

"agreement reached under the provisional Resources and Waste Common Framework … that has been developed by the Department for Environment, Food and Rural Affairs, the Scottish Government, the Welsh Government"—

I think I am right in saying that this is the first time that an agreement reached under a common framework has found its way through to a regulation, which is why this is a significant moment, particularly for people who believe, as I do, in the value of common frameworks.

The Minister may understand that the frameworks were devised by the Joint Ministerial Committee on EU Negotiations to find a means of reaching agreement among the various components of the United Kingdom to create an internal market for the UK in place of the EU market we were leaving. The point was to put in place structures that would focus on areas formerly governed by the EU under EU regulations to enable the UK internal market to function. The important point in the communiqué that was delivered in October 2017 was that policy divergence among the various parts of the UK would be encouraged and permissible.

The memorandum explains well that the internal market principles in themselves would not enable the Scottish regulations being discussed to receive their effect in Scotland, because the principles would allow people who did not comply with the rules under the Scottish regulations to trade in a way that was inconsistent with them—they would have a right to do so under the internal market principles. As the memorandum goes on to explain, the effect of an amendment to what became Section 10 of the United Kingdom Internal Market Act, which is the basis for the Minister's regulations today, enables these regulations to be made, which provide the effectiveness that the Scottish regulations need so that they are enforceable in Scotland. That is what the regulations are designed to do and that is why I very much welcome them. They are the first step in what I hope will be a fairly well-understood method of dealing with these things.

As the noble Lord, Lord Jones, said, the Scottish Government are leading the way on the control of single-use plastics. The Welsh had done so already, before the internal market came into effect, and their regulations are preserved by the United Kingdom Internal Market Act, because they preceded it. The Scottish regulations need the protection that these regulations are providing them so that they will receive the same effect in Scotland as they do in Wales. This is just one example—there could be others—of the way in which these devolved Administrations with rather simpler single-Chamber systems are able to forge ahead and produce results that benefit the environment. I quite understand the frustration expressed by the noble Baroness, Lady Jones of Moulsecoomb, at the way in which England is still to catch up, but that is not the problem for today. The solution achieved today is to protect the Scottish system.

I am not going to say very much more, because it is so well explained in the memorandum, but I have a particular point for the Minister, which he might like to reflect on. I had great difficulty when the internal market Bill passed through the House in the late summer of 2019 in trying to persuade the Government to recognise that common frameworks had a part to play at all in the creation of the internal market. I must say that I owe a great debt to the opposition parties, the Labour Party and the Liberal Democrats, for the support that they gave to me over a series of amendments, which eventually had the effect of persuading the Government to introduce a subsection into what is now Section 10 to enable common frameworks that were the subject of agreement to be recognised. That is exactly what we have here.

[Lord Hope of Craighead]

The point that I really want the Minister to recognise is that we can now see how the system can be made to work in practice and the benefits that come from supporting agreed initiatives by the devolved Administrations such as this one to receive effect. I hope that there will now be a more relaxed and co-operative approach that will enable us to move forward in similar cases in future. I think that I am right in saying that, in Wales, the case of plastic bags is an example of what might happen in future—but there will be others. There may be other things to come, as paragraph 6 of the Explanatory Memorandum explains to us. I hope, therefore, that the Minister recognises the value of what we are doing today and the way in which it could be a way forward to support initiatives that have been taken in various parts of the UK for the benefit of us all, and indeed for the benefit of the environment.

Lord Teverson (LD): My Lords, perhaps I could just take up a theme from the noble Baroness, Lady Jones of Moulsecoomb, around the leadership campaign that is going on at the moment at the other end of the Palace, and to thank the Minister for intervening in that debate and reminding people, along with his right honourable friend Chris Skidmore, that climate change is a pretty important subject. If it is junked by those candidates, that is bound to have a severe effect not just on our planet and country but probably on the party as well. I hope that he has luck in that mission, but I am doubtful to a degree, unfortunately—and I say that with great gravity.

I intervened only to a certain degree during the passage of the United Kingdom Internal Market Bill, which was fairly fraught, during the lockdown and the Covid crisis. I seem to remember all sorts of confusion between mutual recognition and non-discrimination and the two being mixed up by a number of the speakers who maybe should have known better. The question that I got involved on was exactly this one, around how we make sure that environmental protections that are part of devolved authorities' programmes are not overridden by those principles, so they can be enforced within those national boundaries. Therefore, I am pleased by and welcome this SI in making that possible in part, so that environmental protections in the devolved authorities and nations can be enforced and not overridden by imports from other parts of the UK. I very much welcome that.

As noble Lords have said, the reason why this is an issue practically at the moment is that in England, the most populous part of the United Kingdom, we are very much behind the times. Scotland, Wales and even Northern Ireland are ahead of us in terms of these restrictions on single-use plastics. I understand that, after going through this consultation, the earliest we in England will be implementing similar regulations is April 2023. Although nearer than it was, this is still some time away. Perhaps the Minister can find a way of making that quicker. I would be interested to hear his views on that.

I also understand that there is this strange issue of plastic straws in pubs, which you will continue to be able to use—not that I would, obviously—even when they are banned from retail. I would be interested to understand whether that has been resolved yet.

To me, the bigger issue on single-use plastics is still export. There were a number of areas in the 2019 Conservative manifesto around levies on single-use plastics, particularly around export to non-OECD countries. I have certainly become more and more of the opinion that that should be much tighter—maybe we should even export only to EU or G7 countries. I would be very interested to understand from the Minister where we are on that and the various provisions made in the Environment Act. I remind Members that last year we exported some 770,000 tonnes of plastic waste abroad. Those are staggering figures and reflect some of the figures from the noble Baroness, Lady McIntosh.

This is an area where clearly we need urgent action. We should be a leader, not just nationally but internationally, and I look forward to the Minister's response on where we are on this much broader agenda as well.

Baroness Jones of Whitchurch (Lab): My Lords, I thank the Minister for his introduction and the Secondary Legislation Scrutiny Committee for drawing this SI to our attention. I add my support to the point made by the noble Lord, Lord Teverson, about the Minister, and thank him for addressing the candidates to be the next Prime Minister and keeping their feet to the fire on the environment. Although we have had our occasional disagreements in the past, nobody doubts his passion and commitment on this issue. I hope he keeps fighting that battle.

Like other noble Lords, I accept that this SI is becoming necessary following the agreement with the devolved Governments in the Resources and Waste Common Framework. I was grateful to the noble and learned Lord, Lord Hope; I did not realise we were making history in the way he suggested and that this was the first time an agreement on common frameworks was finding its way into regulation and statute. Obviously, that is something we should celebrate. I thank him for drawing that to our attention.

I will raise one practical thing, which is that the Resources and Waste Common Framework is still referred to as "provisional". Perhaps the Minister can clarify when that will be a final agreement. I do not have a problem enacting it, but if it is only provisional presumably there is a final sign-off to take place at some point. I would be grateful if he could advise what the process is for that to happen.

As noble Lords have said, it is obviously welcome that all sections of the UK are now taking co-ordinated action to ban the use of certain single-use plastics, as set out in the SI. As I said, I do not have any objections to the SI, but I have a couple of questions about the implications for further actions on plastics. Are the UK Government planning to ban further categories of single-use plastics? We know that it is only a very limited list at the moment. If further single-use plastics were now being considered, would a separate SI be necessary to address the internal market implications of a ban on each occasion as it came on stream?

Secondly, as a number of noble Lords have said, over the last years the relatively slow pace of progress in England has been frustrating. We have heard again today that Wales and Scotland seem to be leading the way on this. Although we understand that it is necessary to consult before taking action, it is frustrating that

Defra is doing this in a piecemeal manner and taking so long about it. I hope the Minister can give us some good news on that before we leave today.

4.15 pm

Does the existence of the provisional Resources and Waste Common Framework mean that all four Governments will co-ordinate the passage of legislation and/or the date of application for further action on plastic and other polluting items? In other words, will they all carry on doing their own thing, or is there any hope that all four nations will move together at the same time on this? What might happen if, for example, a deposit return scheme, which we talked about earlier and which we know would put a value on returned plastic bottles, was introduced at different times in different nations across the UK? Would that have any implications for the internal market rules? If not, could there be broader undesirable consequences, such as huge quantities of plastic waste bottles being moved across the internal borders for financial gain? We are all trying to understand the full implications of this common framework and how that will apply in the broader sense.

Finally, what are the implications of the Government's proposed legislation to repeal the Northern Ireland protocol? Although this instrument does not directly relate to the implementation of the protocol, would the passage of that controversial Bill impact on the controls on relevant goods in Northern Ireland? What would happen if the EU-derived ban on these products fell away? Is there other legislative underpinning for such bans, or would new legislation be required? I hope the Minister could enlighten us a little more on the implications of the desire of some of the candidates in the prime ministerial elections to rip up the Northern Ireland protocol and what that would mean for us. I look forward to his response.

Lord Goldsmith of Richmond Park (Con): I thank noble Lords for their contributions to this debate. Although the instrument that we are discussing is fairly narrow, the topics covered have been very broad, and rightly so. Pollution does not recognise borders, and co-operation between the four nations is key.

There was some criticism that the SI does not go far enough. I would make the point that it is specifically focused on the Scottish regulations; that is its purpose. A broader, very valid question was raised about whether the policy package on plastic itself goes far enough. I do not think that is directly relevant to this SI, which does a particular job. I think most people have agreed in their speeches that the job is necessary and that this needs to happen.

Before I come to that broader question, I will try to address a few specifics. The noble and learned Lord, Lord Hope, made the point that Scotland is in many ways leading the way on plastic pollution. Although I do not think it goes nearly far enough, it is leading the way among the four nations and it can be proud of the trail that it is blazing. However, we work incredibly closely across the four nations on these issues. Maybe every now and again there is a bit of competition, but that is a good thing as long as the competition is upwards, not downwards, which is always a risk in politics, as we have seen today in some of the interventions that have been made by potential leaders of the Conservative Party. I will come to that point too in a few moments.

I will rise to the challenge from the noble Lord, Lord Jones, who asked me the Minister's name, which is, of course, Lesley Griffiths. However, we have our own Welsh Minister in the environment department, Victoria Prentis. I think she is Welsh.

Baroness Bloomfield of Hinton Waldrist (Con): Yes, from the Gower.

Lord Goldsmith of Richmond Park (Con): Very good, thank you. She works very closely on the issue we are discussing. I am merely her mouthpiece in this Room, because the domestic part of this is not directly part of my remit.

The noble Baroness, Lady McIntosh, asked about wet wipes, and she could have named any number of other products that have come under the spotlight. This goes to the broader question from the noble Lord, Lord Teverson, and the noble Baroness, Lady Jones, about whether the policy goes far enough. I can tell the noble Baroness, Lady McIntosh, that there was a call for evidence in relation to wet wipes and we are analysing its results. It seems inconceivable to me that at the end of this process we would not take the view that the noble Baroness and pretty much everyone who has spoken has taken on the issue of plastic waste over the few years that I have been here debating these issues. We recognise that this is a very serious environmental problem that needs to be resolved and can be resolved only as a consequence of government intervention. That is true in relation to a lot of other single-use plastic items.

The frustration that I have felt many times in exchanges with the noble Baroness, Lady Jones, on the piecemeal approach is one that a number of my colleagues share. It is necessary for us to go through a certain process; you cannot just, at the stroke of a pen, destroy a particular business model by banning something that is key to it. However, we do need to get to a point where we are simply not using, and where it is not permissible to use, single-use plastics when alternatives are there. There will be medical exemptions and certain other uses where single-use plastics are unavoidable, but as a rule it should be our intention to move as quickly as possible to the wholesale removal of avoidable single-use plastics. There are countries around the world—including Rwanda, which has been in the news a lot recently—which are ahead of us in relation to adopting a more comprehensive approach to tackling single-use plastics. The UK has done a lot of the running on this internationally, but we have a long way to go.

In answer to the noble Baroness's specific question, yes, we would need separate SIs for additional bans that come after the bans that have already been announced, but I hope that we would be able to cluster as much as possible to avoid endless debates about specific things and, instead, to get on and really take a bite out of this problem in the limited time we have in Parliament. I very much share her concern about that, but this is not a consequence of reluctance on the part of Defra. I hope she understands that.

[Lord Goldsmith of Richmond Park]

At both ministerial and official level, this is something that we are very keen to do, not least because getting our own house in order allows us to have a bigger voice internationally, as UK negotiators. I would like to take the credit as a Minister, but it is UK negotiators, who are always nameless in these things, who are responsible, more than those of any other country, for negotiating an agreement at UNEA for a global treaty on plastic pollution. They worked 24 hours a day. I spoke to the negotiators from many other countries who made a point of thanking me for the UK's contribution. I cannot name them—you are not meant to do that; it breaks protocol—but it was UK negotiators who did that and we are now part of the process of pushing for the highest possible ambition.

If noble Lords do not mind, I shall branch out a little to address the questions on leadership, because this matters so much. The noble Lord, Lord Teverson, the noble Baroness, Lady Jones, and others expressed concerns about where we are going. I share those concerns and have expressed them, probably a little too noisily, in recent days. My appeal to anyone who might happen to be listening to this debate and to friends at the other end of the building is that we should not be focusing just on net zero.

There is so much focus on whether candidates are saying the right stuff on net zero, but it is a bit of a red herring. That is not because climate change is not an issue—clearly, that is not my view—but because we are already seeing the wheels spinning in terms of market action driving us towards a low-carbon future. We know that more money is flowing into clean energy today than into fossil fuels; that has been true for about six years. We know that the market has made that decision and that it is miles ahead of the politics. The United States under Donald Trump poured billions into trying to keep coal use going, but it fell faster on his watch than under President Obama, who was very keen to see the back of coal.

It is almost irrelevant what the next leader does in relation to net zero over the next 18 months. We have a law. Parliament is not going to delegislate net zero; we all know that. It is simply not going to happen. It will remain our law until the next election. Were a party to enter that election promising to scrap the net-zero laws, that party would not and should not be elected. I do not think anyone would argue with that. The risks around net zero have been massively exaggerated by commentators. The real risk—it is huge—relates to the natural environment. There is no momentum behind protecting the natural environment. There is no market driving the reparation, restoration and protection of nature. That will happen only if Governments intervene; there is no other dynamic there. Yes, communities around the world are fighting to protect their environments, often against evil forces, but the pressure is one way and it is not the right way. Unless Governments write the rules and intervene, we will see absolute devastation.

To those who are tempted to see these as peripheral issues—as I know that some people in politics, perhaps including even some who are standing to be leader of the Conservative Party, do—I say that that is an absurd proposition. I have just come back from the Congo Basin. Science does not really know the value of the Congo Basin. We know some of the value—we know about its biodiversity, its carbon storage and all that kind of stuff—but we also know that it provides rainfall for most of the continent of Africa. We do not know exactly how much but we know it is pretty blooming important in terms of rainfall. Wipe out the Congo Basin—this peripheral thing, according to some of my colleagues—and you lose rainfall across the entire continent of Africa, or at least a very large proportion of it; you have hunger on a scale never seen before; you have a humanitarian crisis that we simply could not deal with in Europe. Look at the problems we have with a few regional areas sending their refugees our way—this would be on a scale the likes of which we have never seen before.

Look at the ocean: 250 million families depend on fish for their survival. What happens if we continue to deplete the world's oceans in the way that we will if we do not see Governments intervening? We will have 250 million destitute families; we will have 1 billion people losing the fish on which they depend for their sustenance. These are really not peripheral issues. They are absolutely central.

Lord Teverson (LD): I thank the Minister for his speech, because most of us would absolutely agree with it. I would have made the same speech during the passage of the UK Infrastructure Bank Bill, when the Government rejected including natural capital and biodiversity in the objectives of the UK Infrastructure Bank. That was a great shame, because that would have given equality to climate change, just as he is demanding.

Lord Goldsmith of Richmond Park (Con): The truth is that this fairly crude speech that I am delivering, which the noble Lord could deliver more eloquently, could apply to most of the topics that we debate, and that is the whole point. Nature is the source of everything, and it is astonishing to me sometimes that we have to make that argument.

Perhaps where I will part company with one or two people in the Room is in saying that over the last few years the UK has been a global leader on these issues. I would say it has been the global leader on many of these issues. It was the UK that created the coalition of 100 countries calling for 30% protection of land and sea by the end of the decade. It is the UK that is doing all the running in creating a coalition on illegal fishing. It was the UK negotiators, as I said, who helped get countries over the line in relation to the plastics treaty. There is no country in the world pushing harder for high ambition at the CBD Convention that is being held in Montreal. It was the UK that delivered the biggest-ever package of commitments around deforestation at COP 26. Subsequently, it is the UK that is leading the global dialogue to break the link between commodities and deforestation.

I really could go on and on with areas where it is the UK that is corralling the world into action and ambition on these issues. That is why the anxiety that has been expressed in this Room today about the leadership election has been expressed by leaders all around the world. I do not know who else they are talking to, but in my dealings as an Environment Minister negotiating

a lot of these points, I have a lot of them on WhatsApp and I have had messages from countries big and small —from G7 countries to tiny little dots on the map in the Pacific—terrified about the prospect that the UK is going to crawl away from its international leadership position and go back in on itself and ignore and abandon the concerns I have been talking about today and which I know are shared around this Room.

Baroness Jones of Whitchurch (Lab): I am sorry, I know the Whip is saying that we need to move on. I will just say quickly that I do not doubt the work that the Minister has been doing on an international level. I pay tribute to that. But back here, we have increasing frustrations about the implementation of the Environment Act and other domestic legislation that we have all worked very hard to craft. There are a lot of things that just are not happening at a domestic level. Coming back and driving that same agenda here in the UK—that is what we really need.

Lord Goldsmith of Richmond Park (Con): I do not doubt what the noble Baroness has said. There are lots of things internationally we could be doing. We should be taking a stronger position, in my view, on deep sea mining. None of the big countries is taking this seriously, but it is a threat to the seabed that is probably unmatched. There are lots of areas where I would like to see us toughen our position and take a more proactive approach.

There are domestic problems. We debated for hours the effects of sewage in our waters. It is not true to say that we have gone backwards. The laws today are stronger than they were when Boris Johnson became Prime Minister. That is an objective fact. You could argue that they have not gone far enough, but we have not gone backwards—and likewise on a whole range of the issues we are talking about today. I am not pretending that this Government are a paragon when it comes to the environment; no Government in the world are. I am saying merely that our Government have earned a global reputation for leadership on the environment which is, I think, unmatched around the world, and it is precious.

4.30 pm

By the way, it is translated into soft power when it comes to dealing with things such as Ukraine. Talk to any of our ambassadors and they will tell you, as they have told me, and as they have told the Foreign Office in their dip tels, that our diplomacy on climate and nature has translated into votes on issues such as Ukraine. It really matters for some of those little islands. For some of these candidates, weather is something you hide from under an umbrella, or you might get bitten by a mosquito—that is nature, or nature is something you put in a plastic bag and sell. But for the countries around the world that depend directly on nature, in a way that we do not depend so directly here, this is existential, and our leadership has mattered.

My hope is—and I will do everything I can in the week or two that I have left in this office—to try very hard to shine a light on these issues, and encourage the candidates who eventually make it to the top to recognise that if they walk away from these issues, they not only will be punished by the electorate, they must be punished by the electorate. It is your duty, and our duty, and everyone else's duty, to punish any leader of any credible party who does not take these issues seriously, because they do not merit the privilege of government if they do not.

This is completely irrelevant to the topic we are discussing today, but I could not miss the opportunity to share with you my rant and frustrations. I am going to stop there. Thank you.

Motion agreed.

Legislative Reform (Provision of Information etc. Relating to Disabilities) Order 2022

Considered in Grand Committee

4.32 pm

Moved by ***Baroness Vere of Norbiton***

That the Grand Committee do consider the Legislative Reform (Provision of Information etc. Relating to Disabilities) Order 2022.

Relevant document: 3rd Report from the Regulatory Reform Committee

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, this is a short but important order that amends Section 94 of the Road Traffic Act 1988. It will allow a wider group of healthcare professionals to provide the important medical information that the Driver and Vehicle Licensing Agency needs to assess whether someone can meet the appropriate health standards for driving. This will reduce a burden that currently rests only with doctors.

This change will directly support the Department of Health and Social Care's agenda to reduce bureaucracy in general practice. The Government recognise that we should be using the skills and expertise of other healthcare professionals, where appropriate. This in turn frees up time for doctors to focus on patient care.

The measure meets the tests set out in the Legislative and Regulatory Reform Act 2006 and has been approved by the Delegated Powers and Regulatory Reform Committee of your Lordships' House, and the Business, Energy and Industrial Strategy Committee in the other place, as being appropriate for a legislative reform order with the affirmative procedure.

I will give a bit of background. The DVLA is responsible for deciding whether a driving licence holder or applicant meets the appropriate health standards for driving in Great Britain. The DVLA does this by assessing information about the individual's health against medical criteria. This order does not change the DVLA's responsibility for making driver licensing decisions.

All drivers and licence applicants have a legal obligation to notify the DVLA of a medical condition that may affect safe driving. In some cases, the DVLA can make a decision with the information provided by the driver. However, in many cases, additional information is required. By far the largest source of medical information

[Baroness Vere of Norbiton]
is gathered from questionnaires that are completed by doctors from information held on the driver's medical records. This service is provided outside NHS contracts; it is private work for which the DVLA pays doctors a standard fee.

Currently, the Road Traffic Act requires a driver to authorise a doctor who has previously given medical advice to them to provide information to the DVLA. In practical terms, this means that the DVLA can accept medical questionnaires only from a doctor. This is an unnecessary burden in this day and age, because not only doctors but many other qualified healthcare professionals are able to provide this information. Between 2016 and 2021, an average of 267,080 questionnaires were completed each year by doctors. It is estimated that each questionnaire takes 20 minutes, so I am sure noble Lords can appreciate that a substantial amount of time is taken up by those tasks.

I turn to the content of the order before your Lordships today. The current law was made in 1988 and does not really reflect current clinical practices. Often healthcare professionals other than a doctor may be primarily responsible for managing certain medical conditions. The term "registered healthcare professional" is used to describe a range of clinicians, including doctors and nurses. Changing the wording of the legislation from "registered medical practitioner" to "registered healthcare professional" will ensure that information can be provided directly by the most appropriate person.

The DVLA will take a phased approach and will initially ask for details of the driver's doctor. The DVLA will write to the driver's doctor, who will be able to pass the questionnaire to another healthcare professional for completion if they wish to do so. However, this change means that longer term, when a driver knows that their care is provided mainly by another healthcare professional, the driver will be able to authorise that healthcare professional to provide the information required by the DVLA. This will allow questionnaires to be sent directly to other healthcare professionals and will remove the need to include a doctor in the administration of the questionnaire. Before the DVLA begins to send questionnaires directly to other healthcare professionals, the department will write to the BEIS Committee with a review of the new process. This will provide reassurance to the committee that there are sufficient safeguards in place.

We have heard some concerns that healthcare professionals other than doctors may not have the knowledge to complete the DVLA's medical questionnaires, but we are content that that is not the case. The DVLA recognises that a person's medical history can be complex, but in many cases healthcare professionals other than doctors will be more than capable of providing the information needed. It is important to recognise that in this day and age many healthcare professionals are specialist practitioners—for example, diabetes nurse practitioners. Although some may feel that the GP's overview of health is important, it should be noted that the DVLA's questionnaire is about a specific medical condition and not about the person's general health. It is about one condition and whether that may affect their driving. If that person has several conditions, there will be several questionnaires that will investigate whether that person is able to continue driving. The request is for the information, and then the DVLA makes that decision.

The order also removes the necessity for the person authorised to have personally given medical advice to the driver. This will address situations where the named doctor no longer has access to the information required, because the advice and attention was from many years ago, or the doctor has retired or moved to a different practice. We will amend the law to remove that requirement.

The DVLA consulted on this proposal. There were 411 responses to the consultation from the public, medical and healthcare professionals, and road safety groups. Almost 82% of those 411 people or groups who responded agreed with the proposal.

The aim of this measure is to update an outdated piece of legislation that does not reflect the way modern healthcare works today. We also see that it relieves a burden on doctors, which is why we have been able to use the legislative reform order route. Those doctors will be able to spend more time on patient care.

As I have noted, the measure will allow the most appropriate healthcare professional to provide the information, but I reiterate that it remains up to the DVLA and its doctors and medical experts, who will review that information, to make a decision about a driving licence application. I beg to move.

Baroness Randerson (LD): I thank the Minister for her very clear explanation. This seems a sensible streamlining of the legislation in accordance with the modernisation of clinical practice. It is welcome, because there are stories of drivers having to wait for excessively long periods for GPs to give their signature and hence their permission. That delay is undoubtedly largely because of the grave and worsening shortage of GPs in Britain. It is therefore really important that we use them in the most effective way.

I was pleased to see that the widespread response to the public consultation was overwhelmingly positive, and that the Secondary Legislation Scrutiny Committee agreed that the appropriate processes had been followed. However, I have two short questions for the Minister. First, what checks are there to ensure there are no abuses of this system? What will be done to review it? Whenever you introduce a new system, you need to look at it in the light of experience in case there is a weakness. Some respondents were concerned not just about abuse of the system but about the level of qualification of some of those healthcare professionals. That might be totally unjustified, but it is important that the review takes place.

Secondly, the DLVA is UK-wide, but healthcare is devolved. There are different approaches to the use of certain healthcare professionals across the nations of Britain. There are some areas where GPs are relied on more than in others, and the breadth of healthcare professionals used is greater in some nations. What consultation was there with the devolved Administrations about this to ensure that the legislation matches their approach to the use of a broader spectrum of healthcare professionals in the system?

Lord Tunnicliffe (Lab): My Lords, we will not oppose this instrument, which will allow a wide range of medical professionals to provide fitness to drive information to the DVLA. However, I hope the Minister can clarify five small points.

First, can the Minister explain why, according to the de minimis assessment, the net cost to business per year is £600,000? Secondly, has the department engaged with health workers' representatives on this issue? Thirdly, the Explanatory Document notes that concerns have been raised that those other medical professionals might lack the required skills and knowledge. What monitoring will take place to ensure that this is not the case? Fourthly, the Explanatory Document refers to "professional indemnity", which I could not fully understand. Could the Minister outline what the position will be when the instrument is approved?

Finally, the explanatory document, which is a significant step forward from what we have seen recently, tells me to contact one of the department's civil servants, but sadly does not provide a telephone number. I know the Minister may find this trivial, but in the past—I have been doing these wretched EDs for decades—I have found that when you have a small point, it is most useful to pick up the phone to someone who is familiar with the document, and probably there will not even be five questions as a result.

4.45 pm

Baroness Vere of Norbiton (Con): I am grateful to both the noble Baroness, Lady Randerson, and the noble Lord, Lord Tunnicliffe, for their brief consideration of today's order. Again, I apologise to the noble Lord, Lord Tunnicliffe, about the lack of a telephone number. My officials behind me have heard that, and I reassure him, and any noble Lord, that if ever they have any question about any legislation that I am doing, my door is always open and I will find an official who can answer their questions, big or small. However, obviously, it is not ideal not to have a telephone number in there, and we will do it in future.

The noble Baroness, Lady Randerson, talked about speed. Part of what we are trying to do here is to increase the amount of capacity within the healthcare system to allow the reports to come back more quickly. That will allow for quicker decisions for people who are waiting and hoping to get their driving licence back. Also, when a decision is made that, unfortunately, a driving licence needs to be revoked, that will also be done more quickly—so there is a road safety benefit element as well.

The noble Baroness picked up on the fact that this will be a phased introduction. In the first phase, things will still always go through the doctor before they go to any other healthcare professional. We will then ensure that we are not seeing any abuses and that the system is working well, and we will of course speak to doctors' representatives—the British Medical Association and the Royal College of General Practitioners, the RCGP—to see how they feel it is going. We are not in a huge rush to move through the first phase, because the doctor is probably able to deal quite quickly with the decision, "Should I pass it on or do it myself?" So we will still be saving time, but I agree that we must make sure that this is working and that there are no gaps whatever in the system. When we are content that that is the case, we will write to the BEIS Committee, and I will be happy to share that with noble Lords so that they see the results of the review and the rationale behind us moving to a further phase—if indeed that is what we decide to do at that point.

The noble Baroness also mentioned that this statutory instrument is UK-wide—it is actually GB-wide, because Northern Ireland has a different licensing system—and that healthcare is devolved. I absolutely agree, and to a certain extent, this order links to however healthcare is organised in the devolved Administrations, because they can decide for themselves how they get the information back to the DVLA. Of course, we consulted with the devolved Administrations before we finalised the policy and there was broad support from them for the aim of removing a burden on the doctors by amending this law. We informed the devolved Administrations about the full public consultation, and we received supportive responses from officials, so I do not see any concern at this time that the devolved Administrations will find this difficult in any way.

There was a de minimis impact assessment, because it has very little impact on business per se. The businesses that it impacts are GPs' surgeries, but they can choose whether they decide to put this into place. We think that a little familiarisation will need to be undertaken within GPs' surgeries, but then it is up to them as to how they organise their business internally. The fees remain the same, so they will judge—certainly it remains a de minimis impact.

On engagement and consultation, we had some quite significant conversations with the British Medical Association and the Royal College of General Practitioners to put their minds at rest that in no way were we trying to force doctors to do anything at all. This is an optional proposal for them. They fully understood that we would never turn round and say, "No; we don't want information from doctors any more". We absolutely do—we want information from the right person, and that is absolutely behind what we are seeing here. DVLA officials have met with representatives from the BMA and the RCGP, and we will continue to have discussions with them as this rolls out.

Some people have raised a lack of skills and training. As I said in my opening remarks, we are content that the sorts of people who will be doing this are very skilled—in many circumstances we trust them with our lives, or at the very least with our health. There will be a definition of "healthcare professional"; so not just anybody who happens to work in a GP's office will be able to do this. Anybody who does it will have to be, for example, a member of the General Optical Council, the General Osteopathic Council, or the Health and Care Professions Council; so they have to have professional membership. The other thing that the DVLA is very willing to do with regard to improving their skills and knowledge of this is to help develop the training. Often the training is provided by these professional organisations; the DVLA already works with some professional organisations to develop training, and although I do not believe that it would be particularly substantial, the DVLA stands ready to support them as they develop that.

[Baroness Vere of Norbiton]

I believe that I have answered all the questions, and if not, I will very happily write. No, I have not—I have just found the professional indemnity question from the noble Lord, Lord Tunnicliffe. This is a matter for the individual professional to discuss with the organisation that they work for, such as the GP practice or the NHS trust or board—or they may wish to seek advice from their professional organisation, for example the Nursing and Midwifery Council, for guidance on matters of indemnity cover. There is probably no one size fits all, therefore there will be lots of different ways to cover the professional indemnity. However, I point out, as I did in my opening remarks, that the DVLA remains responsible for the actual decision; the person is purely providing the information and the DVLA has its own panels of doctors and medical experts who then decide whether a licence should be revoked.

Motion agreed.

Electricity and Gas (Energy Company Obligation) Order 2022

Considered in Grand Committee

4.54 pm

Moved by ***Lord Callanan***

That the Grand Committee do consider the Electricity and Gas (Energy Company Obligation) Order 2022.

Relevant document: 7th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, I beg to move that the draft order be approved.

Since 2013, the energy company obligation scheme has ensured much-needed support to low-income households to improve the energy efficiency of their homes. Since it began, it has delivered around 3.5 million energy efficiency and heating measures to around 2.4 million households. The Government committed in the sustainable warmth strategy 2021 to extend, expand and reform the scheme, to accelerate our efforts to improve the worst-quality homes in line with our fuel poverty strategy and target. This order provides for this expanded and reformed ECO scheme in Great Britain until March 2026.

The order succeeds the previous ECO order in Great Britain. Its main provisions are the scheme's extension by four years to 2026 and its expansion from around £640 million to around £1 billion per year. There is an increased focus on support for low-income and vulnerable households in the least efficient homes. There will be mandatory minimum energy efficiency improvements required for energy performance certificate bands F and G homes; they have to be improved under the scheme to a minimum band D, and bands D and E homes have to be improved to a minimum band C. The introduction of a new minimum requirement will see at least 150,000 EPC bands E, F and G private tenure homes upgraded.

The solid wall minimum requirement will ensure that solid wall insulation is installed in at least 90,000 homes. This order introduces minimum insulation requirements for all homes receiving any heating measure, subject to certain exceptions, to encourage a fabric-first approach. Broken boiler replacements will continue to be limited under the scheme, with upgrades capped at 20,000 homes to encourage the transition to renewable heating and align with the Government's long-term plan for reaching net zero. The scheme's eligibility criteria are reformed, placing greater focus on households on the lowest incomes. Households in receipt of means-tested benefits will continue to be eligible.

The proportion of a supplier's obligation that can be delivered under the flexible eligibility element of the scheme will increase to 50%. Under this, multiple options are introduced to encourage improved targeting of low-income and vulnerable households that may not be in receipt of benefits. These flexible eligibility provisions will enable local authorities, energy suppliers, Citizens Advice and the NHS to work together to identify households that are vulnerable to the effects of living in a cold home. A new scoring framework will apply to incentivise multiple-measure delivery, along with a series of score uplifts to steer measures and delivery where it is needed the most.

Installation quality will continue to be governed under TrustMark's compliance and certification framework. As part of this, the quality of installs alongside a whole assessment of the property will continue to rely on independent industry standards, PAS—publicly available specification—2030 and 2035. Thanks to these reforms, we estimate that around 800,000 measures will be installed in around 450,000 homes. Of those, around 360,000 homes will be upgraded to EPC bands B and C, removing those households from fuel poverty. This is expected to save around £300 on average over the lifetime of the measures and up to £1,600 for those living in the least energy-efficient homes. However, those savings could average around £600 next winter, providing crucial long-term help where it is most needed.

To help deal with the gap between ECO schemes, the order permits measures installed since 1 April to count towards the suppliers' obligation target. These are split into two elements: first, interim delivery, for measures installed between 1 April and 30 June to slightly amended ECO3 rules; and, secondly, early delivery, for measures installed to the new rules. Nearly 33,000 measures have already been installed since 1 April as a result of those provisions.

The Government held a consultation on these reforms last summer and published the government response in April. The majority of consultation responses supported extending and expanding the scheme as well as the proposals for reform. The Government are proceeding with the main proposals, with some key changes in light of the responses received and the final impact assessment. We have increased the EFG minimum requirement from 100,000 to 150,000 private tenure homes, focusing more help to those with the highest energy bills. We are providing extra incentives for the installation of measures in rural off-gas-grid areas in Scotland and Wales to account for the extra costs of delivery. The repair of efficient or inefficient oil and liquefied petroleum gas heating systems will be allowed

as a last resort in homes that are off the gas grid and where it is not possible to instal low-carbon heating measures. This will help to ensure that people are not left without a functioning heating system.

In conclusion, the energy company obligation scheme remains important in supporting low-income and vulnerable households to improve the energy efficiency of their homes and to help reduce the energy bills of an estimated 450,000 households. The scheme remains a key contributor to meeting our fuel poverty and carbon reduction goals and is consistent with the heat and buildings strategy and, of course, our transition to net zero. I commend this order to the Committee.

5 pm

Baroness McIntosh of Pickering (Con): My Lords, I thank my noble friend for bringing forward the order. I understand that there has been quite a delay, as the legislation was due to have legal effect on 1 April. I wonder why there was a delay, but I am delighted to see the order before us this afternoon. I remind the Committee of my interest as president of National Energy Action, which briefed me in advance.

First, I welcome the fact that the spending envelope is going to be much greater than previously. I understand that it has been increased from £660 million to £1 billion a year, which is quite a sizeable increase and makes the scheme much more ambitious. As my noble friend said, it is a fabric-first, multi-measure approach to upgrading homes. The scheme is better targeted and allows local authority suppliers and others to qualify households into it. I regret that, as I understand it, during the delay from 1 April until when this finally comes into effect—my noble friend can tell us when exactly—25,000 households could have benefited, so it is important that we get the statute adopted as soon as possible.

I would like to raise a couple of concerns. The practice of allowing households to make financial contributions towards the measures continues but, if a household is in extreme fuel poverty, how is it expected to find the resources to contribute, given that we are soon to be living in the worst fuel poverty that I can remember? I pay tribute to Martin Lewis, who I think has done consumers and households a great service generally in guiding people towards the schemes and explaining how all of us can save money as October approaches. Perhaps this is not the best day to be discussing this, given the temperatures today.

I would like to clarify why the scheme does not set an adequate minimum of solid wall properties to be treated. I wonder if there was a particular reason for this. The figures that I have are that over 90% homes with solid walls still need to be insulated to meet fuel poverty commitments, at the same time as delivering net zero. We are probably talking about a million fuel-poor households living in solid wall properties with no insulation—some of the worst-insulated houses not just in Britain but probably in the northern hemisphere.

There is a gap in the provision of energy advice that perhaps has not been met by the scheme. How does my noble friend expect to reach the fuel poverty targets at the same time as delivering net zero if we do not have a more comprehensive network of advice provision? While the proposed defined roles of retrofit adviser, retrofit assessor and retrofit co-ordinator will ensure that households are advised initially of the options, we need to ensure that homes are assessed properly and that there is a proper plan for improvement and evaluation. Is there a case that the advice should go further and include information on other available energy schemes and support?

At the moment, it is not entirely clear whether advice is accessible. I seek assurances from my noble friend that any information comes in multiple formats, because not everyone has access to the internet, not everyone has English as a first language, and there are obviously a variety of disabilities to deal with.

With those few concerns, which I hope my noble friend will address, I give a warm welcome to the instrument before us.

Lord Whitty (Lab): My Lords, the noble Baroness, Lady McIntosh, has anticipated me, which is completely understandable since I am a vice-president of the same organisation, but I would like to put this in a slightly broader context.

The other day, when we were having an exchange at Questions, the Minister admonished me for apparently disparaging the ECO scheme. My point is not that the scheme is not desirable. It is a means of delivery that has proved its worth in certain respects. Certainly, the energy companies have now developed systems that identify where they could intervene with their own customers. However, inevitably, by relying entirely on the ECO scheme to deliver energy efficiency provisions, people get missed out. I have always argued that putting the responsibility on the companies as the main means of delivery means that there will always be gaps, because the companies will prioritise in relation to their own consumers. What we really need, have needed for some time and, in the current circumstances, need even more is a scheme that helps absolutely everybody who is fuel poor or likely to be made fuel poor, of which there are now more because of the current energy crisis.

Energy efficiency measures meet a lot of the Government's and the country's objectives of saving energy, moving away from fossil fuels, working towards net-zero targets, and off-setting the energy dimension of the cost of living crisis. We therefore need to strengthen them. I assure the Minister that I approve of the direction in which these regulations move, because they broaden the way you can bring people in. They increase the schemes and the comprehensiveness by looking at multi-measures in a way that past interventions frequently have not. This means that schemes can be addressed that do not rely on mini-interventions but look at the total fabric of the house and the systems by which it is currently heated. The detailed measures on the upgrading of the ratings are also important, and the broadening of the people who can refer into the scheme, particularly via the health service dimension, is also much to be welcomed.

As the noble Baroness said, there are some gaps. The biggest, which is not a gap but an inadequacy, is the failure to set a really strong target for solid wall insulation. The danger is that we do not have the companies and contractors to do that, because the

[Lord Whitty]
regulations do not imply sufficient jobs and there is not the training for installers that is needed to deliver the aspirations. In terms of where we are on home energy efficiency, that is probably the biggest single inadequacy of delivery so far and it needs to be addressed.

I echo the noble Baroness's point about advice, because a lot of the fuel poor, or those who are increasingly in danger of becoming fuel poor, do not have adequate advice in this area. The kind of advice they need overlaps with the advice needed by people in the hitherto so-called "able to pay" category. The failure of the successive schemes to deliver effective support for the "able to pay" sector really underlines the need to upgrade the whole of the advice in this area. The information is still inadequate and difficult to access for both the fuel poor and those who perhaps can still make a contribution themselves, and in some cases pay for the whole lot themselves.

In general, I think this order is in the right direction for the delivery of the ECO scheme but needs to be put into a broader context. That broader context becomes more difficult, because in the next few years we are about to decide what the main form of home heating in this country will be. Individual householders and landlords have to face decisions on insultation, whatever the form of heating. It is not yet clear whether we will still have something approaching the gas network or whether gas will be replaced by a hydrogen blend or by hydrogen. The number of properties is not clear. Many properties do not qualify or are not appropriate for heat pumps in their present form. There will be some difficult decisions on how they address that. Most households would prefer to know what the totality of their movement is, whether they are fuel poor or in the "able to pay" sector. They would like to know that they can perhaps insulate up front and then change to a different form of heating, or at least that they will not have to change everything in their house twice and that, whether they go under the ECO or a scheme where they pay themselves, they will not then have to adapt all their appliances and network again in two, three, four or five years because we have changed the form of heating.

We need a more strategic approach to this, but I assure the Minister that, as far as it goes, I am in favour of what he is proposing to us today.

Lord Grantchester (Lab): I thank the Minister for introducing this order and for writing to draw my attention to it, especially to how it is lowering consumer bills. The ECO scheme has been among the favourites for Conservative Governments to target. It is certainly to be encouraged that they focus on energy efficiency measures to upgrade homes and on targeted support, thus reducing heating costs for low-income and vulnerable households and those at risk of fuel poverty across Great Britain, but not Northern Ireland.

Although it is true that the number of homes with a band C EPC increased to 46% in 2021, it cannot be claimed that that was all due to the ECO scheme. Nevertheless, it is part of a flurry of measures, this one supporting 450,000 homes to be able to save on average £290 a year.

In his letter, the Minister wrote that savings in the least energy-efficient homes could average £600 this winter, which would be wonderful. Can he explain this figure? How many households would be in this number, and how many would reach that magical threshold of band C? Would this alarm many households, in that they might now become liable to higher bands of council tax?

One of the intricacies of ECO3 was that households switching from larger to smaller suppliers to save on their bills could take themselves to companies below the threshold and thus be outwith the obligation for improvement measures. Many of these customers have now found themselves with bankrupt companies. Under SoLR, on which I have questioned the Minister previously, they will have been redistributed to larger suppliers within the obligation. Can the Minister explain the effect of ECO4 on this? Will the threshold be a cliff edge or a reducing threshold while maintaining worthwhile energy efficiency measures?

One of the consequences of reducing thresholds was that energy companies found it cheaper to pay a resulting fine than to offer ECO schemes. Could any increased penalty be liable to push a vulnerable company into bankruptcy and all the consequences of SoLR? With the scheme continuing with household contributions, will energy companies target only those who can make a contribution and ignore those with the lowest incomes?

5.15 pm

The Secondary Legislation Scrutiny Committee in its seventh report of this Session explains that the measure increases expenditure from £640 million under ECO3 to £1 billion per year in 2021 prices, increasing the cost on consumer bills by around £37 per household per year, even though those benefiting will save around £290 on their bills, as I have stated. At a time when we are in a severe cost-of-living crisis across all households, should this not be the time to consider the switch to support via general taxation? This may be a difficult question for those in the leadership race coming forward with unfunded tax cuts. However, the more serious question arises as targeting benefits to specific improvement programmes has resulted in a plethora of schemes—a jigsaw of bitty measures that are hard to navigate. As previous speakers have said, this scattergun effect of government measures produces a fractured position rather than a strategic approach to housing and energy efficiency, brought forward by previous Labour Governments. My noble friend Lord Whitty focused his remarks on the Government's approach in that regard.

It has become unclear how the ECO4 remit will be delivered with the exclusions now to the ECO3 scheme, such as disability and fuel poverty reduction targets being excluded. Can the Minister clarify why under ECO4 there is no provision for advice? Will that money be found from another scheme being directed towards this help? It is vital that households understand the complexities between these several schemes.

Under ECO3, the scheme had a target of reaching 50% of all households. Can the Minister outline whether this was achieved and expand on how rural households are to be supported under ECO4? Generally speaking, energy companies prefer to implement energy efficiency

measures rather than talk about whole-household improvements, which tend to be the better way to approach improvement in rural areas. I welcome the Minister's remarks that the role of local authorities will continue and they will be able to co-author which properties energy companies could benefit. This has tended to be the most successful element of the green homes grant scheme that contributed towards improvements for social housing and vulnerable households. Can the Minister outline how much he considers ECO4 will raise households to band C, which I referred to earlier? The excellent Explanatory Memorandum explains that the new EFG minimum requirements, covering 150,000 homes across bands E, F and G, will raise bands. Why the omission of band D? How material will funding be in terms of the contribution to fund homes under band D under ECO4?

Within this scheme, it looks as if a gap could easily be created from gas boiler replacements being capped at 5,000. Has the Minister's department set that limit from some market intelligence? What happens when, in an emergency, households will require replacements, where heat pumps, which are probably already oversold as a solution, could leave households without heating for a long period. Where does the Minister envisage the hydrogen industry to be by March 2026?

Finally, can the Minister outline how this order will contribute towards the UK's net-zero target and the necessary carbon reduction targets outlined by the Climate Change Committee? In the clean energy White Paper, the Government have admitted that they are dubious that they will be able to meet the fourth carbon budget, yet these targeted support schemes could well be one of those that can achieve the necessary carbon reductions in relatively timely actions. This measure will run until March 2026, whereby benefit outcomes could materialise into 2027 and the fifth carbon budget.

In conclusion, I welcome ECO4 as an improvement in so far as it will bring more money for retrofitting homes but, unfortunately, not in the significant numbers required, nor in a broader strategic retrofit context.

Lord Teverson (LD): My Lords, there have been a few changes in the Government over the past week and it is excellent to see the Minister still here. I took the opportunity to look up his responsibilities, because there has been a bit of a shuffle in BEIS and I was even more delighted to see that he has responsibility specifically for energy efficiency—I think he had it before; the climate change side has moved slightly. I am delighted that energy efficiency remains with the ministerial purview of this House.

I also welcome the fact that the Government tabled an amendment on Report to the UK Infrastructure Bank Bill to include energy efficiency specifically as part of the bank's remit in terms of its investment. I think the whole House very much welcomed that change. They could have done one or two other things, but at least we had that.

On ECO and the prior schemes, I read a report by the Energy & Climate Intelligence Unit—ECIU. I am on its advisory board and it is one of the better of these think tanks. It was interesting that the report reckoned that between 2009 and 2019 some 6 million homes had been improved to band C in energy performance. It estimated that that amounted to a 20% cut in their gas demand, which meant that on an annual basis now those households were saving £1.2 billion. Clearly, that is significant.

Those figures are from 2009 to 2019 and the ECO scheme came in in 2013, but the number of applications dived hugely over the past eight years and only now has started to tick upwards again. It was interesting to read in the Explanatory Memorandum that some 2.4 million homes had made applications to the ECO scheme, but in 2020 we still had 3.5 million homes in energy poverty. Think about that. There were applications for 2.4 million homes but at the end of that process there were still 3.5 million homes in fuel poverty—and that was before the huge price rises in energy that we are now seeing.

The Minister mentioned 450,000 applications and taking them out of fuel poverty. There is no chance of taking homes out of fuel poverty at the moment. We are going to add to that because of the energy prices that there are.

I know this from my own experience. At the beginning of this year I paid a monthly standing order to Octopus Energy of £212. This month I paid £355. That is not my only energy cost, but I admit that, for me, it is not a crisis. But, my goodness, for people outside that is an horrific increase in their energy bills.

I suppose I just want to make the same old argument again that there is so much to be gained from these programmes, as that statistic from the ECIU suggested, but at the moment they are only a pinprick—a drop in the ocean—in terms of what we actually need. Of course, it is easy to say that if we were not starting from where we are now but from before George Osborne as Chancellor of the Exchequer massacred the various energy efficiency schemes' futures in terms of new homes and those sorts of applications, my goodness we would be in a better position than we are now. We are in a position where the Government are spending £37 billion, I think it is, on putting right the cost of living crisis, much of which is driven by energy costs, yet all of that is just to stand still, and I am not the first person to say that. If only we were managing to put that money into these sorts of schemes, my goodness those fuel poverty numbers would start to come down rather than inevitably skyrocketing, as they will. That is my comment on this. As the noble Lord, Lord Whitty, said, how can one argue that this is an improvement? As I said, it is a drop in the ocean, given what we need to do.

My question follows on from what the noble Lord, Lord Grantchester, said. One of the lessons from the disaster of the green homes grant was that the bit that involved local authorities actually worked. I am interested to understand how our local authorities, which are so much better at understanding their local communities and the issue of fuel poverty, will be tied in to the way the ECO4 scheme is delivered.

Lord McNicol of West Kilbride (Lab): My Lords, like many others, I thank the Minister for his explanation of what this order achieves: introducing the latest energy company obligation, ECO4, replacing ECO3,

[Lord McNicol of West Kilbride]
which came to an end in March. I start by echoing what the noble Baroness, Lady McIntosh of Pickering, said, about the effects of the delay. Has any assessment or estimate been made of the effects of the delay between 1 April and the new regulations coming in?

As we heard, the order will place a cost-reduction obligation on gas and electricity suppliers that exceed domestic supply thresholds, requiring them to promote the installation of energy efficiency and heating measures to reduce the cost to low-income and vulnerable households. Unlike ECO1 and ECO2, which were centrally funded, I understand that this obligation to fund and finance again falls on the energy companies using their own resources, as was the case with ECO3.

If this understanding is correct, can the Minister confirm what assessment was made of the difference in impact between these two approaches, given that we now have examples of both? Given that energy suppliers will incur these costs, which will need to be recouped, we can expect them to be passed on directly to customers through energy bills. As others have asked, is this really the best approach at this time, given the energy crisis? Will any steps be taken to encourage or even obligate energy companies not to pass costs on to customers who can ill afford them at this time? In reality, if they are passed on, it will be the consumers and customers who will be paying for the upgrades of their own homes.

As the Minister outlined, the objectives of this order are to help alleviate fuel poverty, accelerate progress to meet fuel poverty targets, contribute to carbon reduction, reduce the costs of meeting the renewable energy target and encourage innovation. All of these are welcome, as is the targeting of vulnerable and low-income households. If the target we have heard about of annual bill savings of £224 million is reached, this will make a real difference.

5.30 pm

I understand that the new EFG minimum requirements will lead to a minimum of 150,000 homes being upgraded, and the retained solid-wall insulation requirements could have an impact on 90,000 homes. Do the Government have any estimate as to how many households will actually be affected? I have a similar question to those of the noble Lords, Lord Grantchester and Lord Whitty, and the noble Baroness, Lady McIntosh: specifically, what will the average household savings be?

This instrument does raise questions in relation to the Energy Bill. If the Government are willing to argue the benefits of energy efficiency for the millions of families facing the catastrophe of soaring energy bills, why does it not extend to the Government's Energy Bill, which has its Second Reading next week? I believe this is another missed opportunity, although the fabric-first approach is right. Making sure that our buildings and houses are as energy efficient as possible is the right approach, as is reducing energy bills. But with the cost of living crisis I believe that more could, and should, be done.

It is right that low-income households and vulnerable households, and households on benefits, are the priority, but there are many other households out there that do not currently fall into these categories but are in households that are E, F or G-rated. What are the Government doing, or looking to do, to benefit all households to increase energy efficiency? With that, we support the instrument.

Lord Callanan (Con): I thank all noble Lords for their contributions to this debate. There is a certain irony in standing here on one of the hottest days of the year, when we are all sweating like billy-o, debating what will happen next winter as people insulate homes, but I am sure we all realise that it is important to get started on this work as soon as possible, and we have done so, as I will set out shortly.

This is all done in the context of what has been an extraordinary increase in the cost of energy, and let me say from the start that the Government recognise that millions of households across the UK may need further support with the cost of living. That is why the Government have announced additional supports this year worth over £37 billion, including a considerable amount of targeted support for those of our fellow citizens who are on the lowest incomes. All domestic electricity customers in Great Britain will receive £400 off their bills from October through the energy bills support scheme. Meanwhile, over 8 million households across the UK in receipt of means-tested benefits will receive £650 as a cost of living payment, and further payments will be made to pensioners and disabled people.

The Government remain committed to helping low-income and vulnerable households to reduce their fuel bills and to heat their homes efficiently. The energy company obligation, or ECO scheme, will be a crucial element of that help this winter and for many years to come. It is not the only element, as I will outline later to the noble Lord, Lord Whitty, and others.

In response to some of the questions that were asked, let me start with my noble friend Baroness McIntosh, who rightly commented on the delays to the scheme. It is worth saying that ECO4, the latest iteration, is the most significant reform since the scheme began, and we have had to make sure that it is fit for purpose right through to March 2026. It is fair to say that this has presented some challenges in policy design, modelling and drafting.

It is important to point out that, while there has been a gap between ECO3 and ECO4, delivery has not stopped, due to the mitigations that we put in place. As I mentioned in my introductory remarks, nearly 33,000 measures have been installed since 1 April and registered with TrustMark, and we expect that number to go up by several thousand, as there is a time lag between the actual installation taking place and it being registered with the registration provider, TrustMark. Moreover, by allowing suppliers, as we did, to overdeliver against their ECO3 targets—referred to in the trade as the "carry-over"—at least 40,000 extra measures were delivered earlier than they would have been otherwise. I accept that these regulations were delayed and are later than I would ideally have liked; nevertheless, delivery has not stopped in the interregnum.

On my noble friend's point about household contributions, the most recent evaluation of ECO showed that 18% of households made some sort of contribution to the installation of measures. With

regard to insulation, that figure was only 12%. Moreover, we have designed ECO4 to fully fund upgrades, so actually we would expect the contribution figure to be even lower than that in ECO4. It is worth saying that banning contributions completely would add some considerable complexity to scheme compliance, and would also remove an essential element of flexibility for customers and for the supply chain. However, I give my noble friend an assurance that we will continue to monitor and keep the matter under review.

On my noble friend's question on the solid wall insulation minimum, ECO4 will focus on the least energy-efficient properties. As I mentioned, we have introduced a requirement for a minimum of 150,000 E, F and G private tenure homes to be treated, and most of those will be solid-walled homes. We estimate that around 75% of total scheme spending will go to improving them to band D or better. We believe that the current solid wall minimum strikes the right balance between giving on the one hand certainty to those in the supply chain while also giving them the essential flexibility to treat homes in a more appropriate way.

My noble friend also made a good point about energy advice. I can reassure her that we are providing tailored advice and support to homeowners on what they can do to improve their homes. Our simple energy advice service has already had more than 1.7 million users, providing homeowners with personal tailored advice for improving and decarbonising their homes and links to local accredited and trusted installers. Homeowners can also find out about various government schemes, which I shall talk about shortly and for which they may be eligible. We intend shortly to enhance this digitally led service this year, and we are considering a number of options to support tailored retrofit advice in local areas. Our ultimate aim is to create a Government-led, multi-platform, home energy advice journey, supported by tailored local advice. We hope that it will provide a much-improved user experience for all households.

I will pick up on the point made by the noble Lord, Lord Whitty, about some people who may be missing out under ECO. Let me make the point yet again that ECO is not the only energy efficiency scheme. It is one element to it—the element funded by supplier bills. As I am often reminding the House, we have a number of other complementary schemes in England and Wales, funded by the Exchequer to the value of about £6.6 billion over this spending review period, including the social housing decarbonisation fund, on which we are about to go out in the next month or two for further bids for another £800 million of spending. There is the home upgrade grant, which specifically targets the poorest performing homes in off-gas-grid areas. Those schemes alone will also upgrade tens of thousands of homes, before we go on to the green homes grant local authority delivery scheme. These are complementary policies. I make the point again to the noble Lord, Lord Whitty, that ECO is not the only scheme; we have a number of different complementary programmes providing energy efficiency improvement in a range of homes in different tenures and areas.

I have mentioned the solid wall insulation minimum that both the noble Baroness, Lady McIntosh, and the noble Lord, Lord Whitty, raised. To add to that point, the additional schemes I have mentioned will also provide solid wall insulation. Again, ECO is not the only mechanism to incentivise what is an essential change for many solid wall homes. Those with cavity walls have often already had cavity wall insulation under the various iterations of the scheme. Solid wall homes are the next challenge we will receive.

There are actually some really exciting developments in solid wall treatments, if noble Lords want to research them. I viewed some external wall insulation in Holbeck, a poor part of Leeds—the area of the noble Baroness, Lady Blake—and saw the difference it made to both the performance of the homes and their external appearance. It really improved the whole look of the street. The finish is so good that it looks identical to either a brick or stone finish and, unless you go up and tap on it, you really cannot tell that it is external wall insulation, so it has that additional benefit. I saw it in County Durham as well. It improves the visual appearance of the street and the homes, as well as providing excellent levels of insulation. The more we can roll out these schemes in the UK and bring their cost down, the more we can make a serious difference to both the appearance of communities and the energy performance of homes.

I agree with the noble Lord, Lord Whitty, about the challenge of decarbonising domestic heating systems. As the noble Lord knows, we set out our approach in the heat and buildings strategy. Notwithstanding the eventual heating system we go for from the various options—it will almost certainly be a combination—we always have a fabric-first approach, which is the ultimate no-regrets option. Whatever heating system you have, if you have more insulation, you will benefit. All homes can be insulated to a level which will make them suitable for whatever heating technology we ultimately opt for. In addition, we also estimate that around 60,000 heat pumps will be installed under ECO4, following the appropriate insulation measures. That complements the heat pumps being installed under the boiler upgrade scheme and the other schemes I have mentioned.

I respectfully disagree with the noble Lord when he says that we do not have a strategic approach. We set it out in the heat and buildings strategy. It is true that ECO alone cannot meet our fuel poverty and net-zero targets. However, as I mentioned, it has been designed in tandem with other schemes so that they can all be delivered together to serve the cross-section of low income and vulnerable households that exist across a multiplicity of different tenures in both cities and rural areas and on and off the gas grid.

Moving on to the questions from the noble Lord, Lord Grantchester, who queried the saving figures cited, the £290 is what we expect the savings to be on average over the lifetime of the measures, which could be up to 42 years. The £600 is how much we expect households to save on average with the coming winter's energy prices.

On the point the noble Lord raised about obligation thresholds, the Government have committed to significantly reduce thresholds where this can be done without introducing disproportionate costs for the very smallest suppliers. Under the previous scheme, the thresholds were lowered from 250,000 to 150,000

[Lord Callanan]
customer accounts and we will also consult on an appropriate buyout mechanism to bring about further reductions in the scheme thresholds in later phases. As I mentioned, the scheme will go through to 2026. The Committee will be pleased to know that we are seeking the primary powers necessary to do this within the upcoming Energy Bill. No doubt we will have further discussions about this when we debate that, starting next week.

Households in receipt of means-tested and disability benefits will of course continue to be eligible under ECO4. The Government are satisfied that those on the lowest incomes and with disabilities which make them vulnerable to cold will still be supported through the ECO4 Flex elements of the scheme.

The gas boiler replacement cap is for only the replacement of efficient boiler and electric storage heaters and is set at 20,000 homes across the scheme. Again, we think the caps are proportional to the ECO3 caps when compared with the number of homes that are expected to be treated under ECO4 and the reforms being made to eligible heating measures. We are of course not capping their replacement with renewable heating systems or district heating connections; nor are we capping inefficient heating system replacements.

5.45 pm

The noble Lord, Lord Teverson, spoke about the numbers of people in fuel poverty. Of course, I agree with the noble Lord that this is a tremendous challenge but, based on the measure for England, which is based on the energy-efficiency rating of homes, we estimate that ECO4 will improve 360,000 homes to bands B and C, taking them out of fuel poverty, at least statistically. In addition, in the short term, as the noble Lord pointed out, this year we have provided £37 billion of direct extra help with the cost of living. Personally, I entirely accept the noble Lord's point that if we had spent some of this money on insulation schemes in previous years, that might have been a more efficient use of it. I will be sure to make these points to the Treasury in further discussions that we will no doubt be having. Every time I say that, the noble Lord laughs.

I agree with the noble Lord, Lord Teverson, that local authorities have a large role to play in ECO4. In fact, I met a group of LGA local government leaders only this morning to discuss the role that local authorities play. We have increased to 50% the proportion of the obligation which can be delivered through upgrading households, through local authorities' ECO Flex mechanism. Indeed, all the schemes I mentioned earlier—the home upgrade grant, the SHDF—by their very nature are all delivered primarily through the mechanism of local authorities. I entirely agree that central government does not know the individual housing circumstances. Local authorities and councils are best placed to do this themselves. I might add that there are some interesting postcode lottery statistics on the number of authorities that choose not to bid into any of our schemes. These are authorities across the political spectrum, oddly enough, but perhaps that is a separate debate.

I am happy to reassure the noble Lord, Lord McNicol, that the delays to ECO4 have had no impact on households. As I said, 33,000 measures have been delivered in the interregnum. Furthermore, suppliers were able to overdeliver on their previous obligation and fulfil the delivery of 40,000 measures. The noble Lord asked about the numbers reached. We estimate that around 450,000 homes will be upgraded. As I mentioned, we think they will save £600 on average this winter; of course, depending on individual circumstances, some households will save more. We already know of an example of a home improved under ECO4 from a band G to a band B. That particular household, of course, will save thousands this year and is already near zero carbon.

The noble Lord, Lord McNicol, asked about making all homes energy efficient—of course, a laudable aim—and it is right, given limited resources, that ECO is designed to focus support on low-income households as part of a fair transition. I would be surprised if the Labour Party was offering anything different, but we recognise that we need to upgrade most homes. We are making slow but steady progress. Some 46% of homes are now in EPC bands A to C, which is an improvement of around 12% on 2010. Of course, we could always do more, but let us not beat ourselves up about it: we are making progress.

The Government are committed to further supporting households in reducing carbon in homes, as we set out in the energy security strategy. We will bring capital spending on building decarbonisation—again, as I mentioned earlier—over the lifetime of this Parliament to £6.6 billion.

I cannot remember who asked me about carbon impacts. ECO4 is estimated to save around 15.08 megatons of carbon dioxide equivalent over the lifetime of the measures, contributing around 1.8 megatons to carbon budget five and 1.7 megatons to carbon budget six. I hope noble Lords are taking a careful note of these figures.

I hope that I have answered all the questions put to me and I commend this order to the Committee.

Motion agreed.

Register of Overseas Entities (Delivery, Protection and Trust Services) Regulations 2022

Considered in Grand Committee

5.50 pm

Moved by ***Lord Callanan***

That the Grand Committee do consider the Register of Overseas Entities (Delivery, Protection and Trust Services) Regulations 2022.

Relevant document: 7th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, I beg to move that the draft Register of Overseas Entities (Delivery, Protection and Trust Services) Regulations 2022, which were laid before the House on 22 June 2022, be approved. These regulations

are a particular delight for me because I promised the House that we would have them before the summer holidays, so I thank all those officials who worked so hard to deliver them. It shows what you get if you make rash promises—officials will work overtime to get them delivered for you.

These regulations form part of an essential tranche of secondary legislation needed to implement the Register of Overseas Entities, which I will refer to for ease as "the register". It will be created—as noble Lords opposite me who took part in the debates will know—under Part 1 of the Economic Crime (Transparency and Enforcement) Act, which gained Royal Assent earlier this year. I thank the House, and the Opposition in particular, for helping us to expedite that legislation.

The register will help to crack down on dirty Russian money, and any other kind of dirty money, in the UK, and other foreign corrupt elites abusing our open economy. The register will require overseas entities owning or buying property in the UK to give information about their beneficial owners and/or managing officers to Companies House. It will provide more information for law enforcement to help them to track down those using UK property as a money-laundering vehicle.

During the Act's passage through Parliament, I undertook to deliver the register as soon as practicable. Subject to the approval of Parliament of this and two other instruments, the register will begin operating over the summer. The three UK land registries, together with Companies House, have been working at pace—I think "at pace" is probably an understatement—to build the systems and processes to ensure that we can get the register up and running as quickly as possible and that it works as intended.

The two other instruments I have just mentioned were laid before the House on 30 June and are subject to the negative resolution procedure. The subject of today's debate is the only instrument subject to the affirmative resolution procedure. These regulations together will ensure that the register is ready to come into operation. It is worth saying that some further instruments necessary to underpin the register's steady-state operation—and again this is subject to the hard work of officials over the summer—will be made in the autumn.

Overseas entities in scope that currently hold land in England, Scotland and Wales will have six months from the date that the register goes live to register their beneficial owners. We think the six-month transition period—and noble Lords will remember the debate we had—strikes a balance in allowing for the free enjoyment of property and helping to maintain the UK's reputation as a stable investment environment while ensuring that property owners register their beneficial owners. It is worth saying that, if an overseas entity does not comply with these new obligations or submits false filings, the overseas entity and every officer in default can face tough criminal or civil penalties, and ultimately it will not be possible to sell the property in question.

These regulations being debated today must be in force when Part 1 of the Act is commenced in order for the register to operate effectively.

I turn to the details of these regulations, which are laid under the powers in the Act and two powers in the Companies Act 2006. They deal with three main elements. First, they require certain documents to be delivered to Companies House by electronic means. Secondly, they will set up a protection regime, which will allow individuals to apply to have their information made unavailable for public inspection. To apply, individuals must provide evidence that they are at serious risk of violence or intimidation if their link to the overseas entity is publicly disclosed. This mirrors an existing provision for the person of significant control of UK companies. Thirdly, they set out that legal entities governed by the law of a country or territory outside the United Kingdom that provide trust services regulated by a supervisory authority, and which are subject to their own disclosure requirements, are classed as "registrable beneficial owners".

On the first of these measures, Part 2 of the instrument sets out that certain documents are to be delivered to Companies House by electronic means. Regulation 3 specifically sets out a duty on overseas entities to deliver certain information to the registrar by electronic means. These regulations state that the following information must be delivered to the registrar: an application for registration; the statements, information and anything required for the updating duty; an application for removal; the replacement of or additional documents delivered to the registrar for the purpose of resolving inconsistencies in the register; and an application to rectify the register. Regulation 4 sets out an exception to this duty to deliver documents by electronic means.

Mandating electronic delivery for certain documents enables the registration process to be streamlined and efficient, and is intended to avoid delays in processing valuable property transactions. Therefore, it is important that electronic delivery to the registrar can be mandated in most cases through these regulations.

The duty to deliver a document by electronic means will not apply where the document relates to an application which contains information about individuals who have applied for their details to be protected. The aim of this limited exception is to provide for those who may be at risk of serious harm to apply for protection from having their details publicly available on the register. Their details would need be handled in a sensitive manner. As such, electronic communication might not be appropriate in those cases.

On the second measure, Part 3 sets out details of the protection regime. This allows beneficial owners and managing officers, or the relevant overseas entities, to apply to have their details protected from disclosure and from inclusion in the public register, if they or someone who lives with them are at serious risk of violence or intimidation because of their link to the overseas entity. Evidence must be provided to the registrar to support the application. As I said, this approach is very similar to the one currently applied in the equivalent regime for people with significant control—PSC—of UK companies.

It is also important to note that an application for information to be protected from public disclosure will not exempt an overseas entity from the requirements of the Act in general. The required information must still be supplied to Companies House and will be available to law enforcement agencies if required.

As for the measure on corporate trustees, Part 4 provides a description of legal entities subject to their own disclosure requirements. Schedule 2 to the Act

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provides that beneficial owners who are legal entities must be subject to their own reporting requirements in order to be registrable beneficial owners. The aim of this measure is to ensure that corporate trustees fall within the definition of a registrable beneficial owner. If this definition is satisfied, overseas entities must take reasonable steps to obtain and provide to the registrar the required information about those trusts. This reflects the requirements already imposed where trustees are individuals. This will provide greater transparency about the true owners and beneficiaries of the land.

I thank the House's Secondary Legislation Scrutiny Committee for examining this instrument and note that it was included as an instrument of interest in its recent report. I confirm that UK Crown dependencies and overseas territories that own property in the UK will be required to register details of their beneficial owners with Companies House in the same way that all others do.

In conclusion, I emphasise that the measures in these regulations are crucial for the effective operation of the register of overseas entities. I was grateful for the opportunity to demonstrate the operation of the register to a number of noble Lords last week. I hope that aided understanding of the measures and the objectives. Therefore, I commend the draft regulations to the Committee.

6 pm

Lord Vaux of Harrowden (CB): My Lords, I start by thanking the Minister for arranging the recent meetings to which he just referred to show us the progress that has been made in creating the register of overseas entities and demonstrating the prototype. I was rather impressed by the progress and, in particular, the verification process that has been included.

The verification goes some way—further than I had expected—towards the suggestion that I and others raised in the debates on the Act, which was to have a regulated person sign off publicly that they have verified the information. We could still go a little further, by ensuring that the name of that person is shown up front and central in the publicly available database. I know it can be found, but I would like to see it in the key information on people involved in the entity, right alongside the beneficiaries, officers and directors. A search function that allows the database to be searched by verifier would also be a very useful tool. It would allow users to see whether any trends emerge and would soon highlight any enablers who are not taking the verification process seriously. The more publicly visible the verification is, the more likely it is to be taken seriously by those doing it.

I hope that the Government will look at strengthening that a bit but, more importantly, that the identities of those doing the verification will be rigorously checked, that the statistics will be closely monitored to identify any trends that emerge, and that action will be taken if it becomes clear, for example, that a small number of persons are verifying a disproportionate number of entities, especially entities registered in less than transparent locations.

I realise that that all relates to the SIs tabled under the negative procedure, but it is relevant to the instrument in front of us today, which mostly covers the rules that will allow the details of an entity to be kept private. Of course, there may be perfectly innocent reasons for that—for example, a celebrity who is worried about stalking, or things of that nature—but privacy must be the exception. These sorts of rules, if not rigorously applied, can creep to become the norm if we are not careful.

Can the Minister explain how the application of these rules for keeping details private will be monitored, and at what stage the Government would step in if there was evidence that the use of the rules was becoming more common than we would expect? What statistics will be available to the public about the use of these privacy rules? How will they be reported, and how regularly?

I am not completely clear which information will be private and which will be public if someone gets a dispensation. I spoke earlier about the verification process and the making public of the identity of the regulated person who carries out the verification being an important disincentive to casual, or even false, verification. If the details of the entity are private, will that also be private? If so, why? The identity of a regulated person is not likely to be sensitive. The regulations are to protect the privacy of people on an exceptional basis; they must not become a back-door way for enablers to avoid the disinfectant of publicity. The identity of the verifier should always be public. The Minister mentioned in his opening words the penalties for false filing that will apply to the directors and officers of the entity. Can he let us know what the penalties would be for a verifier who fails to verify appropriately?

Lord Clement-Jones (LD): My Lords, first, I thank the Minister for his introduction and give apologies from my noble friend Lord Fox, who is unavoidably detained up a mountain. He would never normally miss an SI debate for the whole world. It is very good to see the noble Lord, Lord Vaux, in his place, as he played such a prominent role during the Bill's Committee stage. Like him, I thank the Minister for arranging an extremely interesting and instructive hybrid demonstration of the digital application process, the way that it is put on the register and the way that the register will be maintained.

I want to speak to all three SIs, linked as they are, even if only one needs specific approval today. I welcome the speed at which the register is being brought into effect and echo the Minister's praises for those who have been responsible for doing so. It goes quite some way to justify the rather cursory nature of the passage of the Act itself.

Of course, we still have unfinished business on the economic crime front and I hope very much that it is actively in the pipeline, to ensure that there are no kleptocrats or oligarchs out there who are unexposed. I hope that part 2 will consolidate the UK's fragmented and ineffective anti-money laundering supervisory regime and reform corporate criminal liability law to ensure that it includes enablers. Enablers were very much the subject of our discussion in Committee. I hope that it

combats the use of strategic litigation against public participation, which stifles public interest criticism of these characters, and empowers and resources Companies House to effectively monitor, verify and investigate suspicious companies. I hope that it will significantly increase resource for law enforcement agencies fighting economic crime and support whistleblowers to play an effective role in tackling economic crime. Could the Minister give us a little indication of when we might expect those goodies in the part 2 Bill?

On Regulation 7, I hope that the provisions regarding not putting information on the public register are rigorously applied. But I think there are questions when one looks through the regulation. Will certain elements of the enforcement and crime prevention authorities be consulted when an application under Regulation 7 takes place? What checks of the evidence provided by the applicant will be carried out? That is going to be an extremely important element to maintain that rigour.

As I said, we have had much discussion about enablers. It seems that those who do not comply with the requirements or make false returns on behalf of clients will be subject only to sanctions by their professional body or regulator. Have I got that right? I believe that that is what the Minister said when we had our demonstration. If that is correct, are there plans in part 2 to have sanctions on those professionals who give false verification under Section 16 of the Act, other than via professional bodies? Otherwise, it seems a very tame way of making sure that those who provide that verification do it honestly and with integrity.

It is notable that in this SI process the Act has actually been improved along the lines suggested in Committee by myself and my noble friend Lord Fox for overseas corporate trusts and nominee companies. I used the example of a Panamanian nominee company with multiple properties to point out the flaws in the original Bill. I believe—and I hope that the Minister can confirm—that that avenue is now completely closed, and that a Panamanian nominee trust company would have to disclose the beneficial ownership of every property in its portfolio.

I see that there is no impact statement. In fact, there is a statement in each SI that there is no impact from any of the SIs. That seems very strange. Is it a technicality? In other words, does the main impact come from the passing of the primary legislation? Or is it the case that this set of SIs and maintaining the register will have no impact? It seems extraordinary to put that statement into these SIs, when what they actually do is put into effect the really important part of part 1 of the economic crime legislation. I hope that the Minister can clarify where the Government believe that the impact is.

I have a little technical teaser for the SI team. I noticed that these regulations are made partly under Section 25(3) but not under Section 25(3)(e) and (g). Given that they are being made under paragraphs (a) to (d) and (f), that seems rather odd. Paragraph (e) is

"recording of restrictions in the register"

and paragraph (g) is

"the charging of fees by the registrar for disclosing information where the regulations permit disclosure, by way of exception, in specified circumstances."

Since the SI specifically mentions the bits of the Act which are prayed in aid to make the regulation, it would be useful to know why these two paragraphs have been excluded.

We have three SIs here. Are any other SIs needed to bring the register into effect or is that it? Can we say it is done and dusted, all that needs to happen now is that Companies House gets on with it and the register will be open as soon as possible?

Finally, it would be useful to know from the Minister by when he expects the Crown dependencies and overseas territories to introduce public company ownership registers. I believe it was meant to be by the end of the year; are they still on track for that? In the meantime, will the Government ensure that the authorities in those dependencies and overseas territories will proactively share information with UK authorities to enable comprehensive sanctions designations?

Lord McNicol of West Kilbride (Lab): My Lords, I thank the Minister for explaining this instrument. As we know, it implements aspects of the new register of overseas entities, which will finally require owners of UK property to reveal their true identities and crack down on foreign criminals using UK property to launder money. I apologise for not attending the digital presentation, which sounded fascinating. Maybe I can look into that for the future.

As the Minister said, in order to do this, this instrument will require certain documents to be electronically delivered to the Registrar of Companies. It will also set up a protection regime which will allow owners and managing officers of overseas entities to apply to have their information made unavailable for public inspection, where there is evidence that they or someone in their household are at serious risk of violence or intimidation, and will set out that legal entities governed by the law of another country are subject to their own disclosure requirements.

These are all positive steps which we support. However, I think the noble Lords, Lord Vaux and Lord Clement-Jones, and I are looking for a bit more of an explanation so that these protections are not abused. If the Minister could share some of the detail of the protections that will be put in place to stop the overuse or abuse of these protections, I am sure your Lordships' Committee would be appreciative.

There is a lot to be said here, but of course it has all been said before on many occasions, not least during the passage of the Economic Crime Act through this House in March. As such, I will not keep your Lordships for too long, repeating what has already been said. However, I have some points to make, primarily around the timetabling. The noble Lord, Lord Clement-Jones, picked up a few of those, but I would like to add to them.

There should be nothing controversial about knowing who really owns property in the UK in a healthy, transparent economy and making that information publicly available. Transparency in this area is essential. This is a matter not simply of targeting individuals or entities through sanctions but of fixing a broken system that has helped sustain Putin in his invasion of Ukraine. However, it is not just because of oligarchs and their

[Lord McNicol of West Kilbride]
position in Putin's regime that this has finally being expedited. Like others, I congratulate the Bill team and the civil servants on their speed in pushing this through. It also deals with money launderers and tax evaders.

6.15 pm

We have needed transparency in this area for years, but the Government have historically dragged their feet when we have called for these measures time and again. These steps were first promised in 2016, some time ago. In fact, when we have our next Prime Minister it will be four Prime Ministers ago. Since then, £1.5 billion-worth of property has been bought by Russians accused of corruption or links to the Kremlin.

While the Government fulfilled their commitment to update on progress within eight weeks of the Act receiving Royal Assent, this update was lacking in substance. While the update is of course a positive step, it is four months later and these are only the first of several regulations to be implemented with regard to the register.

With the Summer Recess coming very shortly, the next steps will take even longer, so I have some key questions for the Minister. When can we expect the full implementation to take place? From when will ownership of UK properties have to be logged? When will it finally become public? With that, we support these regulations.

Lord Callanan (Con): I thank noble Lords for their support and their valuable contributions. I think the measure has a wide measure of support. I too pay tribute to the officials who have worked long and hard to bring this into operation.

Before I talk about this, I will answer the point from the noble Lord, Lord Clement-Jones, about economic crime 2, as we are not in fact referring to it; we are not allowed to call it that, for some strange reason, but it is the next tranche of economic crime legislation that we expect to introduce to Parliament shortly after the Summer Recess. The measure is being worked on now. I am afraid I cannot promise him that all the measures he outlined at length will be contained in it—I am sure we will have some debate about that—but we intend to take action on some or many of the things he mentioned, particularly reforms to Companies House.

The Government are committed to ensuring that this register strikes the right balance between improving transparency and minimising the burdens on legitimate commercial activity. The measures contained in this instrument will play a key part in the effectiveness of the register from its launch. To pick up on the point from the noble Lord, Lord McNicol, I hope we can bring the register live on 1 August. That is the intention.

These regulations are essential for the register of overseas entities to operate effectively from the outset. To answer the point from the noble Lord, Lord Clement-Jones, they will enable it to operate. I am afraid they are not the end of the regulations—we will need some additional ones to further clarify the operation, et cetera—but they will enable it to commence and the six-month countdown period to start. All existing entities, including those that have made transactions since 28 February, will have to register in that period. That was a discussion we had during the passage of the Act.

Lord Clement-Jones (LD): I thank the Minister for the detail. Can he say whether that will be by an affirmative or a negative process?

Lord Callanan (Con): Four affirmative and six negative, I am informed by the experts. So we will be back, yes. We will return, as they say.

These regulations are essential for the register to operate, so we can commence it and get the six-month countdown period started. There has been some debate about whether we might expect a large rush of applications as soon as the register goes live. I reiterate that the vast majority of these overseas entities are legitimately owning property. They are corporations and others that legitimately own land, commercial properties, et cetera, in the UK. They will want to ensure that they are in compliance from the outset.

Mandating digital delivery for certain documents ensures that the registrar is able to receive and process information in a timely manner. An effective protection regime will protect those at real risk of serious harm because of their link with the overseas entity from the public disclosure of their details. I say again that this information must still be provided and will still be available to law enforcement. I will say a few more words about that shortly.

The measure on trustees allows for a consistent approach to dealing with corporate and individual trustees. It is a complicated area, but I assure noble Lords that we are attempting to close every possible potential loophole. We will also have some further measures in the economic crime Bill to tackle this issue of trustees, which, as the noble Lord, Lord Vaux, is always reminding me, is extremely complicated. But we are determined, and we will not hesitate, to return to this if any inadvertent loopholes are discovered. But we want to make it harder for corporate structures to be altered to avoid reporting requirements.

The main point raised—predictably—by noble Lords was the issue of protections. To try to alleviate concerns, I will give some of the statistics for the existing regime. There are something like 4.9 million companies registered on the UK companies register. Since 2016 there have been 436 applications for protections from that register, of which 163 have been granted—163 out of 4.9 million. Bearing that in mind, there are about 35,000 overseas entities; it is possible, given their nature, that a slightly greater proportion of the persons with significant control of overseas entities will want to be exempted, but I hope I can reassure noble Lords that the system is not being abused and that, given the proportions, tiny numbers of applications are being granted. Of course, I will make sure that this is closely monitored and that there is no excessive use of this provision. It will be only for those who have a very real need for that protection. But I think we can see from the use of it—it is pretty much an identical regime for the persons with significant control—that it is a tiny proportion, and an even smaller proportion of applications are granted. As I said, only 163 of 436 applications were granted.

This will be a public register. All information will be displayed, aside from, as I mentioned, protected information, such as date of birth and residential address information. Of course, again, that will be available to law enforcement and other public bodies. Companies House does have experience of determining these applications for protections since the PSC regime was introduced in 2016. We will ensure that the mechanism is robust and we will require applicants to provide evidence as to why they think there is a serious risk of violence or intimidation. If necessary, we will refer cases to the appropriate law enforcement agency. I reiterate that the protection does not exempt the person from disclosing this information to Companies House and all protected information is still available to law enforcement. So there is no place to hide.

I will give the figures once again. There were 436 applications under the previous regime, and 163 of them were granted.

The noble Lord, Lord Vaux, asked about verification. Agents who will provide the verification will be UK anti-money laundering supervised professionals—

Lord Clement-Jones (LD): Before the Minister moves on to verification, I just wanted to probe a little further on the Regulation 7 points he was talking about. It is reassuring that it will be a limited number, but my question was about Regulation 7(3):

"The grounds on which an application may be made are that the applicant reasonably believes that if that protected information is available for public inspection or disclosed by the registrar … the activities of that overseas entity; or … one or more characteristics or personal attributes of the relevant individual when associated with that overseas entity, will put the relevant individual or a person living with the relevant individual at serious risk of being subjected to violence or intimidation."

How is Companies House going to assess that? Is it going to consult other crime prevention authorities? Is there an evidence-checking process?

Lord Callanan (Con): The answer to that question is: absolutely. It is kept deliberately—not vague; that is the wrong word. There is a wide scope here, because different individuals will be affected in different ways. They might be foreign diplomats, to take one example. There could be a number of different opportunities depending on their personal circumstances, but the Act is very clear: they will have to provide evidence. That evidence will be checked and verified, and if necessary the head of Companies House, the registrar, will consult the law enforcement agencies.

Noble Lords can see that 163 out of the 436 applications made were granted under the previous regime, so it is clearly a rigorous process and they will have to provide the appropriate evidence. We will monitor it and make sure that the system is not abused. I reiterate that the information is still available to law enforcement; it is just not on the public register. It is also worth saying that there is considerable interest in this from transparency organisations, who I am sure, once the register goes live, will—correctly—crawl all over it and point out any obvious errors or omissions, or anybody who is attempting to avoid the provisions.

I move on to the verification of agents. They will be UK anti-money laundering supervised professionals, and most of those individuals already carry out due diligence when completing property transactions. Those who seek to circumvent the requirements of the Act, including any who provide misleading, false or deceptive information, are liable to criminal or civil sanctions. The identity of the person carrying out the verification will be made public and appear on the face of the register, and if necessary there will be future enhancements for making that information more accessible. We are determined that there is no place to hide for either those seeking to acquire property maliciously or the professionals who enable them to do so.

Companies House will engage with the verifier's supervisory body, but ultimately the enhanced false filing offence may be used in this circumstance, if necessary. Some of the feedback we have had from professional organisations—I shall not mention them—think that these provisions are too draconian; they are unwilling to put their name to some of them. I did say that there was unlikely to be much sympathy in the House for that position.

The noble Lord, Lord Clement-Jones, questioned the impact assessment. The secondary legislation does not make any significant changes that were not anticipated in the primary legislation impact assessment, and for this reason, in line with the better regulation framework, for which I am also responsible, we did not think another impact assessment was necessary and one has not been produced.

The noble Lord also rightly raised the point of tackling the enablers of economic crime. As I said, the information about agents and verifiers will be published on the register. We believe the supervisory regime we have in the UK is comprehensive. We regulate and supervise all businesses most at risk of facilitating money laundering, including accountants, estate and letting agents, high-value dealers, trust or company service providers, the art market, et cetera.

HMRC's civil and criminal enforcement powers and capabilities are an integral part of government work to collect and protect revenue and build a trusted, modern tax and customs department. Our enforcement powers allow us already to tackle a minority who attempt to cheat the system and whose actions cause wider harms. HMRC uses a range of supervisory enforcement powers robustly, to address money laundering and terrorist financing risks caused by non-compliant businesses. The aim of this register is to help them in that task.

As always, of course, the Government keep the law under regular review to ensure that there is a robust legislative framework. Following concerns that parts of the criminal law may not be fit for purpose and calls for legislative certainty around the prosecution of corporate bodies for economic crime, the Government sought to establish whether there was a case for change. In 2020 the Government commissioned the Law Commission to undertake a detailed review of how the legislative framework could be improved to appropriately capture and punish criminal offences committed by corporations, with a particular focus on economic crime. That paper was published on 10 June this year. We are carefully assessing the options presented and are committed to working quickly to reform corporate criminal liability.

6.30 pm

The noble Lord, Lord Clement-Jones, raised SLAPPs, which are an abuse of the legal system involving the use of legal threats and litigation to silence journalists, campaigners and public bodies who investigate wrongdoing in the public interest. The invasion of Ukraine has heightened concerns about oligarchs abusing laws and seeking to shut down reporting on their corruption or economic crime. The MoJ has published targeted proposals against SLAPPs, including legislative changes such as establishing a definition for SLAPP cases and early strikeouts of claims that meet that threshold, strengthening defamation defences and cost capping. The MoJ recently held a call for evidence on these proposals to gather a robust basis on which to introduce targeted reforms swiftly. It also held a series of round-table events with key stakeholders—campaigning journalists, claimant and defendant lawyers, media groups and civil society organisations. The MoJ is currently analysing the evidence gathered and will publish its response in due course.

I am also happy to confirm to the noble Lord, Lord Clement-Jones, that the combination of this year's spending review settlement and private sector contributions through the new economic crime levy will provide funding of approximately £400 million over the next three years for law enforcement to combat economic crime. This includes the £63 million for Companies House reform to help it to carry out the necessary transformations for delivery of the new powers and the updated register.

This SI does not make provision for the charging of fees, so we do not need to rely on Section 25(3)(g). Companies House will not charge specified public authorities to access protected information. The equivalent regulation was not necessary, removing a potential barrier.

I respectfully disagree with the noble Lord, Lord McNicol, on the timing of the Economic Crime (Transparency and Enforcement) Act and these regulations. The Government are at the forefront of tackling illicit finance, including that linked to Russia. Combating the illicit finance threat from source to destination has never been more important. Serious criminals, corrupt elites and individuals who seek to engage in this activity know that they are now under our targets. They also know that the full weight of law enforcement and the tools that accompany it will bear down on those who threaten the security of the UK and our allies. With the legislation we have introduced in recent years, we have shown that we take the threat of illicit finance, including from Russia, extremely seriously. This register is a key part of this and will help to combat illicit finance.

I think I have answered all the questions that were put to me. I once again thank all noble Lords who have taken an interest in this. As I said, this will be complementary to the additional provisions that will be introduced in the further economic crime Bill coming in the autumn. In the meantime, these SIs enable the register to be up and live in the early part of the summer. Therefore, I commend the regulations to the Committee.

Motion agreed.

Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2022

Considered in Grand Committee

6.35 pm

Moved by ***Baroness Stedman-Scott***

That the Grand Committee do consider the Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2022.

Relevant document: 6th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office and Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, I am pleased to introduce this instrument, which brings into pension law various duties of trustees of defined benefit and defined contribution occupational pension schemes relating to the appointment of fiduciary managers and the use and performance review of investment consultants. These duties will replace those currently set out in an order made by the Competition and Markets Authority, the CMA, in 2019 following an investigation into competition in the relevant markets. Compliance with these duties will now be overseen by the Pensions Regulator instead of the CMA.

These regulations contribute to the Government's objective of improving pension schemes' administration and governance standards, transparency and decision-making, which will in turn drive better outcomes for the millions of hard-working savers in occupational pension schemes now and for years to come. I am satisfied that the regulations are compatible with the European Convention on Human Rights.

These regulations bring into pension legislation the obligations on trustees of occupational trust-based pension schemes contained in the CMA's order in relation to the provision of investment consultancy and fiduciary management services. Before setting out more about what the regulations do, it is worth explaining the background to how they have come about.

In simple terms, investment consultancy is the provision of advice to trustees on investment strategy and related matters. Fiduciary management involves the delegation of some investment decisions by trustees to advisers alongside providing advice on investment-related matters. The use of these services has grown over the last decade. The complexity of investments, lack of investment knowledge and challenge of managing defined benefit scheme liabilities has led to an increased dependence on both services. Good investment is a key element in any well-run pension scheme. Trustees are responsible for investment governance and are accountable for any investment decisions taken. They also have a duty to consider proper advice and act in the best financial interests of beneficiaries.

In December 2018, the CMA, following a referral by the Financial Conduct Authority, published its report on its market investigation into the supply and acquisition of investment consultancy and fiduciary management services to and by various investors and

employers. The CMA found that among pension schemes there was a low level of engagement by trustees and a lack of clear and comparable information on which to assess value for money.

6.39 pm

Sitting suspended for a Division in the House.

6.48 pm

Baroness Stedman-Scott (Con): The CMA found among pension schemes that there was a low level of engagement by trustees and a lack of clear and comparable information on which to assess value for money. Trustees were being steered by consultants towards their own higher-cost fiduciary management services, giving them an incumbency advantage. Ultimately, trustees were more likely to pay higher prices for these services than they should. Overall, the CMA found that this was having an adverse effect on competition for these services and likely bringing financial detriment for employer sponsors of defined benefit pension schemes and savers in defined contribution pension schemes.

It is important to note that both services were said to influence decisions affecting pension scheme assets worth over £1.6 trillion and the retirement incomes of millions of people. Any negative impact on scheme outcomes will be significant, and will accumulate and compound over the long term in which pension assets are invested. The CMA's report proposed recommendations and remedies to encourage better trustee engagement when buying services, and better disclosure of fees and performance. The CMA made it clear that some of these remedies would be implemented by an order. That order was made in June 2019 and came into effect later that year.

The CMA also recommended that the Department for Work and Pensions take forward legislation to bring into pensions legislation the provisions of the order for two specific remedies: first, the requirement to carry out a competitive tender in certain circumstances before appointing, or continuing to use, a fiduciary manager; and secondly, the requirement to set objectives for, and review the performance of, investment consultants appointed by the trustees.

The CMA also recommended that legislation should provide for the Pensions Regulator to oversee these new duties on trustees, rather than leave long-term enforcement action against occupational pension scheme trustees to the CMA. The DWP, on behalf of the Government, committed to do this in early 2019 and consulted on its proposed legislation in summer 2019. However, because of necessary reprioritisation brought on by the Covid-19 pandemic, work on this was delayed until this year.

The regulations before the Committee fulfil the commitment the Government made in 2019 to accept the CMA's recommendation and to integrate the requirements in the CMA's order that apply to trustees of occupational pension schemes into pensions legislation. Subject to approval, this instrument will require trustees of occupational pension schemes to set objectives for persons who provide them with investment consultancy services, to review those objectives at intervals of no more than three years, and to annually review the performance of those providers against those objectives. This setting of objectives will enable trustees to monitor the performance of their advisers.

The regulations also require trustees to carry out a qualifying tender process when continuing to use existing fiduciary management providers, or appointing new ones, if the scheme meets the asset management threshold. The threshold is met when fiduciary managers covered by the regulations manage 20% or more of in-scope assets. The regulations also set out what the qualifying tender process is and when it must be carried out. Additionally, through the regulations the Government have defined "investment consultancy provider", "investment consultancy services", "fiduciary management provider" and "fiduciary management services" for the first time in pensions legislation.

The Government believe that these duties will encourage trustees to become more engaged with the way services are bought, monitored and evaluated, or to consider more efficient consolidation options. In turn, this will lead to better outcomes for scheme members and employer sponsors of schemes.

For the most part, the regulations replicate the effect of the relevant provisions in the CMA's order. However, there are some small differences that reflect government policy. One such difference is about the type of schemes that are exempt from the requirement to set objectives. The CMA excluded trustees of schemes that are sponsored or funded by providers of investment consultancy and fiduciary management services from setting objectives for their investment consultant and from tendering for fiduciary management. The regulations bring these schemes back into scope of the requirement for trustees of such schemes to set objectives for their investment consultant. It is government policy that members of such schemes should still benefit from a well-governed, high-performing investment consultant, despite the trustees and the investment consultant being part of the same organisation.

The regulations also do not make any provision about local government pension schemes. This is a matter for the Department for Levelling Up, Housing and Communities and the devolved Administrations in Scotland and Northern Ireland to bring forward their own legislation. As such, for local government pension schemes, the CMA's order, to the extent that it imposes requirements relating to investment consultants, will continue to remain applicable for the time being.

Finally, this instrument does not create any exceptions from the requirement to tender for fiduciary management services in cases where parties are connected only because they are participating in a joint venture. This is to avoid the risk that, where a scheme sponsor and a fiduciary manager had a joint venture, they would not be required to run, or bid for, a tender. The CMA order contains a limited exception for joint ventures. This change has been made to disincentivise firms from creating joint ventures to circumvent this duty.

As stated earlier, the regulations bring the monitoring and enforcement of these trustee duties into the regulatory remit of the Pensions Regulator. Trustees will be required to provide certain information about the use of investment consultancy and fiduciary management providers in the scheme return which they must complete each year

[Baroness Stedman-Scott]
and return to the Pensions Regulator. The information enables the Pensions Regulator to monitor compliance with the duties set out in the regulations. The regulator has said it will update its published guidance to reflect the final regulations ahead of them coming into force.

In conclusion, these trustee duties concerning the way investment consultancy and fiduciary management services are bought and evaluated will facilitate good governance, which will ultimately mean services that are better value for money, benefiting members and the employer sponsors of pension schemes. Of significant importance is that the regulations bring compliance, monitoring and enforcement of the duties under the remit of the Pensions Regulator. I therefore commend this instrument to the Grand Committee and beg to move.

Baroness Janke (LD): My Lords, I thank the Minister for her presentation and explanation of why the Government are introducing this statutory instrument. The Explanatory Memorandum states that it

"will encourage better trustee engagement, transparency and governance when buying investment consultancy and fiduciary management services. It will require trustees of occupational pension schemes … to set objectives for their investment consultant and carry out a tender exercise in certain circumstances before appointing a fiduciary manager. It will also enable The Pensions Regulator … to oversee the remedies which apply to such trustees and ensure compliance."

The problem that the regulations are designed to address is focused mainly on smaller occupational pension schemes which need to take advice on their investment strategy. The investigation by the CMA of advice to pension schemes found that there was a low level of engagement with trustees, a lack of information for assessment of value for money, and that customers were steered by consultants towards their own higher cost fiduciary management services giving them incumbent advantage.

The remedies proposed by the CMA are to become part of the new regulations, with TPR ensuring compliance. We are broadly supportive of the measures in the SI but have a few issues for the Minister to address. First, can she reassure us that the new process is not onerously bureaucratic and time-consuming for small schemes? Certainly, the introduction of competitive tendering has in some cases led to a very time-consuming process, so I would like her assurances on that.

What about the cost to smaller pension schemes? The impact assessment has detailed calculations but, probably because it is very long and detailed, I did not find a great deal on the need to empower and train trustees and managers to introduce the new system.

Also, the DWP has a strong view that bigger is better as far as pension schemes are concerned. These regulations are needed to improve the quality of advice to smaller schemes with less experienced trustees. Will the Minister say how the consolidation of DB and DC schemes is going? The Minister urges consolidation and the Government are starting to put in place a "comply or explain" duty on small pension schemes to show that they are providing value for money for members or, if not, to merge into something bigger. Has this been successful? How has it been evaluated? Can she say something about what the Government are doing about the barriers to consolidation? For example, what is the cost of legal advice and consultation with members to wind up a scheme and merge into something bigger? In small schemes, costs could be high relative to the gains from consolidation, so what are the Government doing about that?

We support the proposals and look forward to best-quality advice and higher transparency for members of the scheme. I look forward to the Minister's response to the points that I have raised.

7 pm

Baroness Drake (Lab): My Lords, I declare my interest as a pension scheme trustee, as set out in the register. I thank the Minister for her helpful and clear explanation of the intent of these regulations. I support them, because they integrate into pensions legislation an order produced by the Competition and Markets Authority to address the weaknesses it found in the investment consultancy and fiduciary management markets.

This instrument integrates two of the CMA's seven proposed remedies for addressing the weaknesses in those markets by placing duties on the trustees of relevant occupational pension schemes: remedy 1 is the mandatory competitive tendering requirement for pension schemes to follow when it comes to fiduciary management services; and remedy 7 places a duty on trustees to set their investment consultants clear strategic objectives. These regulations also put the regulatory responsibility for the oversight of those trustee duties within the remit of the Pensions Regulator.

The case for the order being integrated into pensions regulation was set out very clearly by the CMA in its report on these markets:

"we find there are weaknesses in the demand side based on a low level of engagement by some pension scheme trustees. In addition to this, for those who engage with the market, the information that trustees need to assess the value for money (by which we mean both fee levels and quality) of these services is difficult to access. These two factors reduce the competitive pressure on investment consultants and fiduciary managers."

Sadly, the CMA's report and recommendations, which followed a referral from the FCA, which also identified problems, provide yet another example of a necessary intervention to address instances of poor competitiveness in the pension industry market. Poor practices on the supply side by providers and demand-side weaknesses driven by the well-known drivers of asymmetry of knowledge and understanding, customer inertia and low levels of active engagement lead to customer detriment.

In this instance, the demand-side weakness is the low level of engagement by some pension trustees, most likely in smaller and DC schemes. On a read-through of the detail in the CMA report, its very real concern about how these markets are operating becomes apparent. Lack of information and transparency on fees and performance, incumbency advantage and barriers to switching fiduciary manager rank high among those concerns. It is very depressing that we are still seeing examples of those behaviours in the pensions market.

Investment consultants and fiduciary managers have a very influential role through the advice they give and in the exercising of delegated authority to manage

investments on behalf of the trustee—I say, as a trustee, that this is why this is so important. If their performance or value is poor, the result is detriment to the pension savers. The nature of the investment advice and fiduciary management markets means that any negative impact on scheme outcomes because of their performance or value is significant and will accumulate and compound because of the long time horizon over which pension assets are invested.

Addressing market weaknesses is not without its challenge. A very perceptive observation in the Secondary Legislation Scrutiny Committee's *6th Report of Session 2022–23* in reference to these regulations provides me with an opportunity to articulate something that has been worrying me but which the committee has been very perceptive in identifying. It welcomes the additional protections, but adds:

> "This is the thirteenth SI relating to the governance of occupational pensions that we have seen in the last 12 months and the Government need to be mindful of the cumulative impact of the costs and administrative burdens on both pension schemes and trustees."

It is not only in the last 12 months. Over the last few years, there have been several pension scheme Bills and a plethora of regulations. I completely recognise that some of those regulations are very necessary to address weaknesses in the private pensions market, which are well documented in numerous FCA and CMA reports and other reputable sources of data. But in other instances, regulations are needed to correct the impact of public policy decisions and their implementation in the first instance. Suboptimal policy, or suboptimal implementation of policy, is itself now beginning to generate excessive regulations and is increasing that volume.

There are many more examples, but I will take just a few. The Government failed to anticipate the exponential growth in scammer activity that followed the introduction of pension freedoms. It was pretty obvious to most people in this field that, once you tell people that they can take all of their money very easily out of all their pension savings, scammer activity would grow exponentially. Even with the new regulations to address the scam problem, there is ambiguity between the intention of the primary legislation, the regulations and regulatory guidance.

The supposition of active engagement by savers and the requirement to take advice in certain circumstances has not provided the sufficiency of protection for pension savers. As the FCA reported, a significant amount of the advice given was not fit for purpose. It culminated in the steelworkers' problems. The FCA confirms that consumers often take the line of least resistance in choosing draw-down products. Lack of transparency, complexity and consumer inertia all lead to poor decisions. We then have markets that did not respond with the degree of product innovation that was forecast. The introduction of value for member assessments, although conceptually the right thing to do, did not make for easy comparison between schemes.

All these issues and others have increased or will increase the volume of regulation. They add complexity and less efficiency in consumer and public policy outcomes. This is genuinely worrying me a great deal. Regulatory overloads that miss the primary target take us back to that very perceptive comment by the Secondary Legislation Scrutiny Committee. If the fundamental issue is not correctly analysed, the policy appropriate and the implementation right it will just lead to layer on layer of regulation to try to correct some of these problems in this market, which will never be a very efficient and functioning competitive market for all the reasons we know.

I wanted to take advantage of the comment in the Secondary Legislation Scrutiny Committee's report, because I suddenly felt not alone. Here was a group of people who probably know nothing about pensions at all but asked, "How many of these things can you lay on people before you create a greater problem than the one you are trying to fix?"

To end on a more positive note—it is not that I do not think that there are positives—I recognise the work of the Minister and officials in increasing the number of eligible poor pensioners applying for pension credit. I understand that the results are very significant, so my compliments on that, having given a list of things that I am unhappy about. I look forward to seeing the figures.

Lord Davies of Brixton (Lab): My Lords, I thank the Minister for her introduction to the regulations. I always prefer to speak after my noble friend Lady Drake and to say that I agree strongly. It can leave the impression that I might have made the same points as forcibly, so I get the credit without any of the hard work that has been put in.

However, on this occasion, I will reinforce this issue of regulations. Just read the regulations as presented to us: this is not a sensible way to tell people how to run their pension schemes. However, it is too late; we have adopted this pattern and we just have to pile regulations upon regulations. We have the report from the committee, and I hope its views will be borne in mind. There is so much to do, and to do it with regulations requires this continual production of additional regulations, but who really understands them? We require the guidance from the Pensions Regulator, so in fact we have two sets: you can look at the regulations and at the guidance. I wish we had not gone down this road of setting out how pension funds should run.

I can claim some experience here because I was a pensions regulator. I was a member of the Occupational Pensions Board, and we introduced contracting out—you can tell it was a long time ago. We made a much better job of telling people what they could, should and should not do. We introduced this extremely complicated process of contracting out over a relatively short period and we did it through issuing guidance. The guidance was what ruled. Clearly, we had very strong enforcement powers, because if people did not follow our guidance they did not get their certificate, so they had to follow our guidance—I suspect it is not quite the same here. In that sense it was a much simpler task. I really feel that some deep thought needs to be given as to how the requirements on schemes should be set out. Doing it by regulations is manifestly not the way to do it but it is the way we have adopted. We are there now, and it would be very difficult to pull back. However, this has some impact on how the regulations are drafted, presented and handled.

[Lord Davies of Brixton]

Of course, one problem is that the industry will always be one step ahead, so it is not as if we will ever reach a final steady state of regulations—there will be continued processes. All I am asking for, in support of my noble friend, is that an overall view is taken of the way regulations are introduced and incorporated in the structure of pensions law. There is a much better way of doing it. Thirteen SIs in one year strikes one as absurd.

I conclude with a trivial point. I have always been fascinated by this—I have seen these things for many years, not only since becoming a Member of this noble House. What is the strict distinction between Explanatory Notes and Explanatory Memoranda? I told your Lordships that this is extremely trivial, but I note that "the Pensions Regulator" gets a small "t" in the Explanatory Note and a capital "T" in the Explanatory Memorandum.

Baroness Sherlock (Lab): My Lords, for those watching at home, I have just managed to pour water all over my speech, so I hope that noble Lords will bear with me if at points it ceases to make any sense.

I thank the Minister for her introduction to these regulations and all noble Lords who have spoken. Like my noble friend Lord Davies, I am delighted to speak after my noble friend Lady Drake—we all are. We all learn something from every time she contributes, and I thank her for her expertise and hard work on this.

7.15 pm

In its report on the investigation into the investment consultant markets, published in December 2018, the CMA made a series of recommendations for action by the DWP, the Pensions Regulator, the Treasury and the FCA. In June 2019, the CMA laid its order, which implemented remedies to address weak competition found within the investment consultancy and fiduciary management markets. As we have heard, this instrument integrates into pensions legislation the relevant provisions of that order and brings them within the scope of TPR. The key effect is that trustees of relevant occupational pension schemes will be required to undertake competitive tendering for fiduciary management services for pension schemes if they have not done that before, and to set strategic objectives for their investment consultants.

The noble Baroness, Lady Janke, noted that the stated aim of the policy is to improve trustee engagement, transparency and governance when buying investment consultancy and fiduciary management services. My noble friend Lady Drake was absolutely right to remind the Committee of the crucial role played by investment consultants and fiduciary managers in advising trustees and exercising delegated authority on investments, which gives them real influence over investment outcomes. That makes it really important that trustees are able to access good-quality services and advice and can monitor the performance of their advisers and the value of services delivered.

Trustees also play a vital role as the first line of defence for millions of scheme members. Driving up standards of scheme governance has, understandably, been a priority for TPR. It is notable that the CMA identified instances in which trustees did not meet TPR's standards of trustee knowledge and understanding. My noble friend Lord Davies spoke about the importance of clarity in regulation and good communication. Given that the Government have chosen this way to go, are they considering any further initiatives to help trustees to improve their knowledge base, but in a way that does not undermine a diverse population of trustees being represented on trustee boards?

The CMA remedies proposed to address the market weaknesses that it identified were extensive. As well as the regulatory responsibilities placed on TPR and the duties on trustees, the remedies included a requirement on investment consultants to separate marketing of their fiduciary management service from their investment advice and to inform customers of their duty to tender in most cases before buying fiduciary management; requirements on fiduciary management firms to provide better and more comparable information on fees and performance for prospective customers and on fees for existing customers; and a requirement on investment consultancy and fiduciary management providers to report performance of any recommended asset management products or funds using basic minimum standards.

One hopes that these regulations will help to address the failings in the investment consultant and fiduciary management markets, improve trustee governance and get better outcomes for pension savers, but the Committee should be clear about the scale of the challenge. My noble friend Lady Drake and the Minister mentioned some of the concerns in the CMA report about how these markets are functioning. I think it is worth getting that detail down for the record.

The CMA found that features of the investment consultancy market restricted or distorted competition in the supply and acquisition of investment consultancy services by pension schemes. These included low levels of engagement by some trustees, with some lacking the capability to scrutinise properly the investment advice they receive and therefore being less likely to switch, tender or formally review their investment consultancy services—a problem most prominent among small schemes and DC schemes. There was a lack of clear information and standards needed to assess the quality of their investment consultant and a lack of clear and comparable information for customers to assess the value for money of alternative investment consultants.

The CMA had even greater concerns about features of the fiduciary management market, including firms steering customers towards their own fiduciary management service, as we have heard; low levels of customer engagement in testing the market prior to moving into fiduciary management; a lack of clear and comparable information to assess the value for money of alternative fiduciary managers; a lack of clear information for customers to assess the value for money of their existing fiduciary manager; many customers not receiving clear fee information, limiting their ability to assess the competitiveness of the fiduciary management and the underlying funds invested in on their behalf; investment performance being reported on a gross-of-fees basis, which does not reflect the real outcome for the scheme; and barriers to switching fiduciary manager, such as requiring substantial time and incurring high costs. Other than that, it is going swimmingly.

My noble friend Lady Drake is surely right that the nature of these markets means that any negative impact on scheme outcomes could not just be significant but compound across the long timescales to which pension funds operate.

Regulation 4 places a duty on the Secretary of State to review the provisions of Part 6 of the 1996 regulations, as inserted by these regulations, to set out the conclusions of the review in a report and to publish the report. The Secretary of State must publish the first report under this regulation by 31 December 2028, and subsequent reviews must be carried out at intervals of no more than five years. But 2028 will be 10 years after the publication of the CMA report; that is a long time to wait for a report on whether the weaknesses in the investment consultancy and fiduciary management markets have been significantly addressed, given their importance to member value and outcomes and the potential contribution to member detriment if they go wrong. How will Parliament be informed as to the progress, or lack of it, in addressing the weaknesses in these markets before the publication of the Secretary of State's report in 2028?

I cannot finish without coming back to the comments about the Secondary Legislation Scrutiny Committee, to which my noble friend Lady Drake drew our attention in some detail. As my noble friend Lord Davies said, this is the 13th SI the committee has had in the last 12 months. That is very striking. I have lost track of how much primary and secondary legislation on pensions I have had to do, as I am sure the Minister has. My noble friend Lady Drake gave a very insightful and important assessment of the background and consequences of this barrage of legislation. What assessment has the Minister's department made of the actual impact on trustees, especially in smaller schemes, of this barrage of changes? I do not just mean the impact assessment on this particular set. What are they looking at across the piece—the impact of the successive wave of legislation on trustees?

Secondly, what will her department do differently in response to the criticism by the SLSC that some of these regulations have been needed to correct the impact of public policy decisions and their implementation in the first instance? My noble friend Lady Drake gave the good example of scams following on from pension freedoms.

Finally, has the Minister's department worked with the Treasury to consider at a higher level whether their whole approach to this market is working? If you keep legislating, and you keep amending your legislation at ever-diminishing intervals, is it possible that this approach is not delivering for consumers?

Action to address the weaknesses of investment consultancy and fiduciary management markets is welcome, but I will be interested to hear the answers to the many very good questions asked of the Minister by noble Lords today.

Baroness Stedman-Scott (Con): I thank all noble Lords for their contributions. While some of the participants in today's debate stand in awe of the brain power on pensions of some of the people in this room, they are not alone. Many of the points raised by noble Lords go much wider than these regulations, and there are many things on which we will have to write to noble Lords to ensure we can answer these important questions. We will do so and put a copy in the Library.

The noble Baroness, Lady Janke, raised consolidation and what plans the Government have to accelerate the pace of consolidation in the DC market. The DWP continues to champion the benefits that consolidation can bring in improved governance, lower cost and enabling schemes to reach the scale needed to access a broader range of investments. Last year, regulations were introduced requiring all DC schemes with less than £100 million in assets to undergo a rigorous value-for-money examination each year, the intention being that schemes that cannot prove value will put members first, make improvements or wind up. Data from the Pensions Regulator shows that consolidation is happening at a healthy rate, but we will continue to keep this area under review to ensure that savers are not left in small, poorly governed, underperforming schemes. In the meantime, we are working with the Pensions Regulator and the Financial Conduct Authority to create their value-for-money framework and metrics that will enable genuine comparisons to be made and encourage competition across the DC market.

The noble Baroness, Lady Janke, asked a question about processes being onerous and bureaucratic for small schemes, and the cost to smaller schemes in terms of charges, et cetera. Trustees of schemes of all sizes have been complying with the CMA's order since December 2019. They have reported compliance without further issues raised. The CMA investigation found that

"the potential benefits of our remedies package are likely to substantially outweigh the potential costs … even small improvements in quality of these services or reductions in price will produce substantial benefits which will likely increase over time. In comparison, the likely cost of our remedies is small."

The noble Baroness, Lady Drake, asked what we are doing to improve transparency of pension charges and choices for members. The Government consulted last year on a proposal to move to a single universal charging structure across all providers of qualifying defined contribution pension schemes used for automatic enrolment. Responses to that consultation and other evidence are being considered to determine our next steps. Additionally, as part of the Government's commitment to protect individuals in automatically enrolled schemes from higher and unfair charges, secondary legislation is being enacted to implement a de minimis threshold of £100 on the value of members' rights, below which the flat fee element of the combination charge cannot be charged.

I thank the noble Baroness, Lady Drake, for the points that she raised about pension credit uptake. There has been a great effort to promote it to the pensioners who need it. There was a great campaign, resulting in Len Goodman doing a video, which has gone down very well with people and has had a massive effect. He gave the campaign a 10. Having got a 10 from Len, I am hoping that we can get a 10 from your Lordships, and particularly the noble Baroness.

The noble Baroness also raised consolidations on scheme. There are one-off costs within consolidation but, in our view, the long-term benefits of moving to

[Baroness Stedman-Scott]
bigger, better-run schemes with a more diverse investment strategy are in savers' best interests.

I thank the noble Lord, Lord Davies, for his contributions. We will take note of what he said on the regulations, and I apologise for the mistake in the Explanatory Memorandum.

The noble Baroness, Lady Sherlock, asked how Parliament will be informed as to the progress—or lack thereof—addressing the weakness in these markets prior to the publication of the Secretary of State's report in 2028. The report referred to is the post-implementation review of the legislation. In the interim, the duties that these regulations place on trustees will be monitored by the Pensions Regulator. Reviews between the Pensions Regulator and the DWP will take place on a regular basis.

The noble Baroness also raised an issue regarding trustees. The Secretary of State has announced her intention to make 2023 the year of the trustee. Although final proposals are still being developed, the department is keen to explore what additional support can be given to trustees, and how diversity on trustee boards could be improved.

The noble Baroness, Lady Sherlock, also asked about cost estimates for setting objectives in the CMA final report, similar to the DWP impact assessment. DWP cost estimates for setting objectives are based on information gathered by the CMA as part of its investigation into the investment consultancy markets. The DWP, the CMA and the Pensions Regulator have continued to share analysis throughout the construction of the impact assessment to ensure consistency.

The noble Baroness asked whether the legislation could reduce benefits to members as additional costs will be passed on. Replicating the CMA order places a direct cost to pension schemes, but it is anticipated that schemes will benefit from lower fees, increased quality, greater choice of services and accelerated innovation benefits, which may be passed to members. As highlighted in the CMA report,

"the potential benefits of our remedies package are likely to substantially outweigh the potential costs".

Since DWP legislation largely replicates the CMA order, it is anticipated that benefits will continue to outweigh costs. However, potential benefits are hard to quantify, which is why they could not be monetised in the impact assessment.

7.30 pm

We have a duty to ensure that those who have engaged in pension saving in their occupational pension scheme can rest assured that their scheme is on course to deliver the best possible outcome for them, bringing into pensions law requirements which help to tackle inconsistent levels of governance and encourage better engagement by trustees, with the procurement, evaluation and monitoring of investment consultancy and fiduciary management services a necessary step.

Transferring the regulatory responsibility to the Pensions Regulator will remove the burden of dual compliance processes for the trustees of the relevant trust schemes who have already been complying with the CMA's order over two years. The CMA will make provision so that the parts of its order that are covered by these regulations will cease to have effect once the regulations come into force.

The noble Baroness, Lady Sherlock, raised a point about the regulations and the interface with HMT. We continue to work closely with HMT and regulators to ensure the pensions sector is working effectively and in its members' best interests. I commend the instrument to the Committee.

Motion agreed.

Committee adjourned at 7.31pm.