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GENERAL COMMITTEES

Public Bill Committee

EDUCATION AND ADOPTION BILL

Sixth Sitting

Tuesday 7 July 2015

(Afternoon)

CONTENTS

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Saturday 11 July 2015

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: Mr Christopher Chope, † Sir Alan Meale

† Berry, James *(Kingston and Surbiton)* (Con)
† Brennan, Kevin *(Cardiff West)* (Lab)
† Donelan, Michelle *(Chippenham)* (Con)
† Drummond, Mrs Flick *(Portsmouth South)* (Con)
† Esterson, Bill *(Sefton Central)* (Lab)
† Fernandes, Suella *(Fareham)* (Con)
† Gibb, Mr Nick *(Minister for Schools)*
† Haigh, Louise *(Sheffield, Heeley)* (Lab)
† James, Margot *(Stourbridge)* (Con)
† Jones, Graham *(Hyndburn)* (Lab)
† Kyle, Peter *(Hove)* (Lab)
† Lewell-Buck, Mrs Emma *(South Shields)* (Lab)
† McCabe, Steve *(Birmingham, Selly Oak)* (Lab)
† Nokes, Caroline *(Romsey and Southampton North)* (Con)
† Pugh, John *(Southport)* (LD)
† Timpson, Edward *(Minister for Children and Families)*
† Tomlinson, Michael *(Mid Dorset and North Poole)* (Con)
† Trevelyan, Mrs Anne-Marie *(Berwick-upon-Tweed)* (Con)
† Walker, Mr Robin *(Worcester)* (Con)
Wilson, Sammy *(East Antrim)* (DUP)

Fergus Reid, Glenn McKee, Joanna Welham, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 7 July 2015

(Afternoon)

[Sir Alan Meale *in the Chair*]

Education and Adoption Bill

Clause 2

Performance standards and safety warning notices

2 pm

Kevin Brennan (Cardiff West) (Lab): I beg to move amendment 19, in clause 2, page 2, line 46, at end insert—

'(2A) Any power exercised under this section by the Secretary of State must be done by Order."

Clause 2 removes the mechanism for governing body appeal to Ofsted. This amendment requires the Secretary of State to exercise any power under the amended section 60A by Order contained in a statutory instrument under section 181(1) of the Education and Inspections Act 2006.

The Chair: With this it will be convenient to discuss amendment 34, in clause 5, page 4, line 44, after "may" insert "by order".

The amendment requires Parliamentary accountability and visibility in the direction making power of the Secretary of State.

Kevin Brennan: I welcome everyone back for the Committee's afternoon sitting. We come now to the third and final group of amendments to clause 2. Amendment 19 is an attempt to answer the problem of clause 2's removing the mechanism for a governing body appeal to Ofsted. We are seeking more clarity about the decision to remove a governing body's right of appeal to Ofsted following a warning notice. As the Bill removes the power of a governing body to appeal against a warning notice, the amendment would insert, as an alternative way of getting some measure of appeal, direct accountability for all decisions to intervene by the Secretary of State. It would require those interventions to be made via the mechanism of a statutory instrument.

It is clear from this and other actions by the Government that the Government lack confidence in Ofsted. Perhaps the fact that Ofsted has recently had to sack so many of its contracted inspectors—the very same inspectors on whom the Government have relied for judgments about which schools to intervene in—has led Ministers to strip Ofsted of the role of hearing appeals against these notices. I do not know. Perhaps the Minister will clarify why he does not think that Ofsted is a fit body to hear those appeals from governing bodies. However, just because the Government have lost faith in Ofsted's ability to hear an appeal of this kind, that does not mean that they should completely abandon basic principles of natural justice. If Ofsted is not trusted by the Minister for Schools and the Secretary of State in this respect, surely something else should be put in its place as a safeguard against the arbitrary use of ministerial power.

The Schools Minister and I may disagree from time to time about the reasonableness of the actions that he takes and that the Secretary of State takes. I accept that we will sometimes see things differently when we are looking at ministerial actions, but as the Minister himself pointed out earlier in today's proceedings, we are legislating for all future possibilities, including the most unlikely of possibilities for who might be sitting in his seat or the Secretary of State's seat in the future. I remind him that there was a time when he was on the Opposition side and I was on the Government side. A week is supposed to be a long time in politics, so yes, that is ancient history, and I accept that we are likely to be in the same position for a few years to come, but on a serious note, we are legislating for all future Ministers, so we should be vigilant about legislating for anything that allows the arbitrary use of power by Ministers.

Amendment 19 means that, when issuing a notice, the Secretary of State would have to do so by order, rather than by direction. There would therefore be an opportunity for Members to pray against the statutory instrument—to use the technical term that we use in this place, not always understandable to the public—or, in effect, to put a question mark against what the Minister is doing to trigger at least a debate on the use of the power, against which the right of appeal is being removed from governing bodies.

Louise Haigh (Sheffield, Heeley) (Lab): Does my hon. Friend agree that the issue is about not only who is Secretary of State, but an additional layer of accountability? As we heard time and again in evidence last week, that confuses the system and adds yet more challenges to a demoralised and over-pressurised workforce. Does he agree that the amendment would allow Parliament to scrutinise the impact on the workforce and on the education system as a whole of any order by the Secretary of State?

Kevin Brennan: With her usual acuity, my hon. Friend is absolutely right. That is an additional argument. We will be hearing from her later about her amendment, and I look forward to that immensely.

Amendment 19 proposes a minimum, light touch, democratic and parliamentary safeguard against a clause that introduces ministerial fiat into the Bill. Members might not be aware of this, but even the closure of a motorway slip road has to be done by statutory instrument through this place, yet apparently the Secretary of State, under the Bill, will be able to intervene in a school without any parliamentary accountability being necessary.

The Minister for Schools (Mr Nick Gibb): Does the hon. Gentleman think that, were the local authority to use the powers under discussion, those interventions should be subject to a negative resolution procedure in the House?

Kevin Brennan: Preferably, another route of appeal would be available when the power was exercised by a local authority, namely an appeal to Ofsted. Given that the Minister is sweeping away any right to an appeal to Ofsted on behalf of governing bodies—presumably because he has lost all faith in Ofsted's being able to deal with it—there must be some alternative. I am interested to know whether there is such an alternative, and whether that might be through a statutory instrument. That is

particularly apt when the Minister, who is after all accountable to Parliament, would be making such an order—or, indeed, such a direction—unless the amendment is accepted.

Bill Esterson (Sefton Central) (Lab): It was interesting that the Minister asked about an appeal to the local authority. Does he think that that is a route to be explored, if he is concerned that using statutory instruments is excessive? Perhaps a local authority is the route to deal with such matters.

Kevin Brennan: The Minister was not suggesting that—I am saving him the trouble of explaining that to the Committee. He was testing whether, in the case of a notice laid by a local authority, there should also be a means of appeal through a statutory instrument, as envisaged in the amendment. I am simply saying that it is worrying that he is sweeping away any right of appeal and that such an approach has severe dangers—we will hear from several Conservative Members this afternoon, but I do not know if they are concerned about natural justice. The Schools Minister may be able to tell us, when he makes his remarks, about how he thinks the clause will fulfil the normal common-law requirements on natural justice—he mentioned common law in this morning's sitting, so perhaps he will explain that point to the non-lawyers among us this afternoon.

All governing bodies are not necessarily up to scratch—everyone acknowledges that. The National Governors Association admits that governing bodies vary in quality across the country, and says, as we would—I am sure the Minister would—that

"governing bodies need to be honest and realistic about their own performance".

However, there are many competent governing bodies across the country, which play a central part in school improvement and are capable of adequately challenging headteachers and senior leadership teams. There should be some channel for their concerns to be heard.

The revocation of the fundamental democratic right in the clause genuinely offends against natural justice. Disallowing any means of appeal constitutes unfettered power of the sort that the Minister has previously denied that he is seeking. I took the trouble of reminding myself of what the Minister has said on this issue in the past. In this case, it was during proceedings on the Education Act 2011, specifically when discussing the insertion of section 96A into the Education and Inspections Act 2006—again, this business of making legislation by amending previous Acts, which we were talking about earlier. At the 20th sitting of the Public Bill Committee on that legislation—it was a much longer Bill than this one; hon. Members will be relieved to hear that this Committee will not be sitting for that long—the very same Schools Minister who, Lazarus-like, is sitting here now after being taken out of the Government for a while, said:

"While we believe that the intervention power is necessary, we do not believe that the power of the Secretary of State should be unfettered. Schools will be able to make representations to Ofsted against the warning notice, whether or not it is given as a result of a direction. Ofsted will be the final judge of whether the warning notice should have been given. If the notice is confirmed, and the school fails to take the necessary action to remedy the concerns set out in the notice, the school will then become eligible for intervention."—[*Official Report, Education Public Bill Committee,* 31 March 2011; c. 835.]

There we have it—that is what he said back in 2011.

It is therefore only fair that the Minister should give the Committee a full and properly justified explanation of why he now disagrees with himself. We all look forward to hearing from him at the end of the discussion on this group of amendments, and I may want to probe him a little further once we have done so, so I will leave my remarks there for now.

2.15 pm

Mrs Emma Lewell-Buck (South Shields) (Lab): It is a pleasure to serve under your chairmanship once again, Sir Alan. I will speak briefly in support of amendment 19.

During debates so far on the Bill we have heard a lot about accountability, which is why I am so surprised that, when it comes to the powers that the Bill gives the Secretary of State, there is so little by way of accountability. In our sitting just last Thursday we heard that the Secretary of State will not have to justify her reasons for intervening to regionalise adoption services; now, in clause 2, we see that she will not have to answer for her decision to intervene in a school, either.

I find it a strange trend, at a time when there is such a lively public debate about devolution and giving control of public services to communities, that when it comes to schools the Secretary of State seems to be accumulating ever more power. Clause 2 will mean that interventions can be signed off from Whitehall with no public scrutiny and no way for the decision to be effectively challenged. Taking away governors' right of appeal makes the Executive completely unaccountable. Parents and governors need to be able to have confidence in the decisions that are being made about their school and they will not be reassured when those decisions are handed down from Whitehall while they have no ability to challenge them.

We all agree that turning underperforming schools around is important, but precisely for that reason, there needs to be proper accountability in the decision-making process. Parents will want to know that the decision has been made carefully and not on some whim of the Secretary of State's. That is why amendment 19 will require a statutory instrument to be laid before the House before an intervention can be made. As my hon. Friend the Member for Cardiff West noted, it is not just Opposition Members who have opposed giving the Secretary of State unbridled power. I repeat that, back in 2011, this Schools Minister said,

"we do not believe that the power of the Secretary of State should be unfettered".—[*Official Report, Education Public Bill Committee,* 31 March 2011; c. 835.]

Somewhere along the way it seems that he and the Government have changed their mind. If the Minister is not willing to accept amendment 19, will he please tell the Committee why he no longer believes that the Secretary of State needs to be accountable and why these decisions should be taken without proper scrutiny?

Louise Haigh: It is a great pleasure, Sir Alan, to serve under your chairmanship on my first Public Bill Committee. I support amendment 19 and I shall further examine the impact on subsection (2)(h). First, I ask the Minister for a clarification. Paragraph 19 of the explanatory notes state:

"The governing body's entitlement to make representations against the warning notice to the local authority, and the local authority's obligation to consider those representations, is removed by clause 2(2)(h)".

[Louise Haigh]

However, the actual effect of this subsection, which removes subsections (7) to (9) of section 16 of the Education and Inspections Act 2006, seems to be to remove the entitlement of the governing body to make representations against the warning notice to Ofsted, which may then uphold the warning notice or not. Perhaps this is just another symptom of the unnecessary haste with which the Bill was drafted and put before us, but it would be helpful if the Minister clarified his understanding of this provision and, if necessary, issued corrected explanatory notes.

I want to talk briefly about the real impact that the already highly stringent accountability regime is having on hard-working, dedicated teachers across the country and why I want some right of appeal to be maintained. On Friday night, I hosted a meeting with local teachers to hear about their experiences in the profession. I am sure the Minister will want to advise me on better ways to spend my Friday nights, but following the Minister's response in the evidence session last week, when he told me there had never been a better time to be a teacher, I was interested to hear from those working on the front line whether they agreed. A wide range of staff attended, from lunchtime assistants, teaching assistants and newly-qualified teachers to teachers with 20-plus years of experience and heads of primary and secondary schools. We covered a range of issues that are currently affecting the profession, from the impact of academisation and the lack of CPD to the increasing use of teaching assistants and unqualified teachers in place of fully-qualified and experienced teachers, but what came up from every single person in the room was their fear of the current inspection regime. They fear that they will be judged as failing, inadequate or, as a consequence of the Bill, coasting. That is why this amendment, securing natural justice, is so important to those teachers.

One teacher with 18 years of experience in the profession broke down in tears in the middle of the meeting, describing working 50-plus hours a week, constant box ticking and evidence taking and excessive marking and paperwork—all things that she described as having nothing to do with why she originally chose to take up this vocation. Perhaps that would be worth it if it were all genuinely necessary to guarantee the best education for all our children, but there was a very strong feeling that the accountability regime cannot always be relied on to provide an accurate measure of quality.

My concern is that the clause will only add to the pressures outlined. For a governing body not to be able to make representations to Ofsted on the basis of a notice it believes to be based on inaccurate claims simply ratchets up the pressure.

I note that one group of teachers was not at the meeting on Friday; there was no one over the age of 50. Perhaps that is a consequence of the increasing number of teachers who retire early. Dealing with "inadequate" or "coasting" schools will ultimately rely on good teachers, such as the one who broke down in front of me who is now selling her house, so that she can leave the profession—something that she never thought she would have to do and least of all wanted to do.

The measures in the clause are perhaps minor compared with the Bill's impact as a whole, but the direction of travel is important. We should remember that the effect of legislation is not just on processes and procedures, but ultimately on the professionals who operate them and, of course, the pupils, and we all want them to succeed. I hope that the Minister will consider these points and those made by my hon. Friends, and I look forward to his response.

Mr Gibb: Welcome back, Sir Alan, after our short break. I will start by responding to the hon. Members for South Shields and for Sheffield, Heeley. First, the hon. Member for Sheffield, Heeley is absolutely right: the teachers whom she met on Friday are right about the workload that teachers endure at the moment. TALIS—the teaching and learning international survey—shows that teachers in this country are working significantly longer than the OECD average, perhaps by eight hours a week, yet the teaching hours that they work, according to that survey, are similar in this country compared with the OECD.

What is happening in those extra eight hours if it is not adding to the sum total of teaching in our schools? The answer is the sort of things that the hon. Lady is talking about: data collection, lesson preparation and marking. When we asked the teaching profession about its concerns about workload in response to TALIS and to what people were telling us, the issues that came top of the 44,000 responses were first, data collection and processing; secondly, the concept of deep marking; and thirdly, issues to do with lesson planning and so on.

We are taking measures to deal with these issues. We are setting up working groups, following that workload challenge, and looking at issues such as what is called dialogic marking to see whether that is the right approach. From my discussions with teachers, including the National Association of Head Teachers and other unions, I think that that is not the right approach to marking. We are absolutely looking at that to see how we can take away the pressure that is emanating from somewhere in the education world to insist that dialogic marking is used to give feedback on pupils' work. We are also looking at data collection and resources that teachers use. We are absolutely committed to taking on the challenge of teachers' workload, and we are determined to address it.

The hon. Lady referred to the explanatory notes, and again she is spot on. There is an error in the explanatory notes, which incorrectly refer to schools making representations to the local authority when, in fact, we are talking about representations made to Ofsted. She is right and that explanatory note will be corrected.

The hon. Member for South Shields referred to several issues where the Secretary of State will not have to answer. I have to disappoint the hon. Lady, but the Secretary of State does have to answer for everything that she does. She answers to us in the House at least once a month in Education questions, but also in other debates—Opposition day debates, Adjournment debates, Back-Bench debates and so on—so the hon. Lady is wrong to say that the Secretary of State will not have to answer, because she will.

Peter Kyle (Hove) (Lab): My hon. Friend the Member for South Shields pointed out in her speech that teachers were feeling extra pressure from the additional inspection regime that will be added under the Bill. I notice that the Minister has not addressed that aspect in his remarks, and I wonder whether he will come back to it. As my

hon. Friend expressed powerfully, in addition to the local authority and Ofsted, an additional level of inspection will put extreme pressure on some teachers. Will the Minister address that point before he moves on?

Mr Gibb: I was struggling to understand the precise point about Ofsted; there is no additional inspection regime under Ofsted. The coasting issue is outwith anything that Ofsted does. In fact, we will debate this when we come to clause 1, which should be very soon I believe. We have set out clearly the metrics for the definition of a coasting school; it is based not on Ofsted judgments, but on performance measures, both attainment and progress, as set out in the regulations. We will debate that when we come to clause 1, but it is certainly not based on Ofsted judgments.

Amendment 19 relates to the power that we seek under clause 2, which was discussed earlier today and which will amend section 60 of the Education and Inspections Act 2006, to allow regional schools commissioners to give a performance standards and safety warning notice. Amendment 34 relates to the power that we seek under clause 5, which will amend schedule 6 of the Education and Inspections Act by adding proposed new paragraph 5A to provide that, where a local authority appoints an interim executive board, the Secretary of State, via the regional schools commissioners, could give directions on the IEB's size and composition and on its members' terms of appointment. This power will help to minimise the number of IEBs that do not work effectively—for example, they might be too big or not appropriately skilled—and help to ensure that they can make effective decisions on improving their schools.

Amendments 19 and 34 would achieve similar aims of requiring that any warning notice or direction about an IEB was made by an order contained in a statutory instrument under what will be section 181 of the Education and Inspections Act 2006. Under section 182(1) of that Act, such an order would be subject to the negative procedure. I understand hon. Members' desire to ensure that there is due process behind any intervention, whether issuing a warning notice or giving directions about an IEB. Amendments 19 and 16, however, would introduce a different level of scrutiny of the Secretary of State's power to issue warning notices from that which currently exists for local authority warning notices. That would involve unnecessary scrutiny of IEB direction and serve only to create more delays and bring more complexity into the system, which we are trying to reform to reduce delays and complexity. As hon. Members will know, statutory instruments are more properly used for changes in regulations or closing motorway slip roads than for tackling school underperformance.

When a regional schools commissioner issues a performance standards and safety warning notice directly to the governing body of a school under the new proposal in the Bill, they will do so only when they are convinced that the underperformance, the problems with governance or the safety issues warrant taking such action. Similarly, any direction in respect of a local authority IEB will be made only when the RSC judges that such action would be beneficial for the school in question. RSCs will be advised, of course, by their headteacher boards, which are there to support them in making effective decisions. Therefore, an appropriate level of challenge will be built into the system. Using a parliamentary procedure for secondary legislation would be disproportionate. As RSCs are exercising the Secretary of State's powers, the Secretary of State is, as I mentioned in response to the hon. Member for Sheffield, Heeley, already accountable to Parliament for the decisions that they make.

The hon. Member for Cardiff West made some references to Ofsted and the removal of the appeal to the chief inspector that is in this clause. Ofsted has had 40 representations against warning notices and has only upheld two of those appeals. The appeals process slows down action because the warning notice is paused while Ofsted considers the appeal, and the compliance period only begins again once the warning notice is confirmed.

2.30 pm

Steve McCabe (Birmingham, Selly Oak) (Lab): I am trying to understand this general truth. An appeals process slows down action in any circumstances, but the purpose of the appeal is that the action might not be appropriate. That is why it is being challenged, so it is funny to use that as a defence.

Mr Gibb: Yes, but we are not talking about an appeal against a fine or a prison sentence; we are talking about an appeal against a warning notice to a school to require it to improve standards. That is a whole different ball game.

In any case, warning notices have to be reasonable. The Secretary of State will be accountable in Parliament for notices issued by regional schools commissioners. The Association of Directors of Children's Services has long called for this step to be removed, as has Ofsted, which wants to see the process of warning notices streamlined and to ensure that schools take steps to improve as soon as possible. This is about swift action to ensure that school standards improve.

Peter Kyle: I do not want to try the Minister's patience with my interruptions, but in recent weeks 40% of Ofsted inspectors have been released from their contract because they were not able to perform their duties to the standards expected. Does that not illustrate why appeals are so important? In the past, it might have been not the challenge that was incorrect but how that challenge was dealt with at the other end. We need to look at the appeals process, but now that we know that some of the inspectors making the judgments were, themselves, not up to the job, might the schools not have been right in the past?

Mr Gibb: We are talking about an appeal to Ofsted, so the hon. Gentleman's query is rather strangely worded. What is happening at Ofsted is a reform process that Sir Michael Wilshaw, the chief inspector, has been preparing for some time. Inspectors are now directly employed by Ofsted, rather than through various subcontractors, which is a better way of managing inspections. It is a worthwhile reform, and I commend Sir Michael for what he has achieved in his determination to improve the quality and consistency of inspections. With those final words, I hope that Members now feel able to withdraw their amendments.

Kevin Brennan: I listened with great interest to what the Schools Minister had to say. We had an interesting discussion about this group of amendments, with good contributions from my hon. Friends the Members for

[Kevin Brennan]

South Shields and for Sheffield, Heeley, as well as interventions from other hon. Friends—with the exception of our Whip, who stays quieter than most of us for most of the time.

As I have said, we are concerned about the removal of any kind of appeal. I take seriously the Schools Minister's point; we do not want any encumbrance in the system that would prevent swift action being taken in schools when necessary. We all take that seriously, but it is not a reason to sweep away any notion of natural justice. People who are often working extremely hard to run a school may feel that they have been the subject of an injustice in how the notice has been issued.

We should be extremely cautious about sweeping away any means of appeal. I hoped that the Minister might propose some alternative that would overcome his concerns about the potential misuse of an appeal to Ofsted in a process that he clearly does not think is appropriate, or that he might come up with some alternative means for people to have such decisions reviewed or to appeal against them. We do that all the time with constituents who come to us with concerns about a decision made by the Executive, the bureaucracy or a powerful institution. People feel that they are voiceless and do not have an opportunity to appeal against decisions. We help people all the time. Why should a governing body that feels it has not been treated fairly in the issuing of a warning notice by the Secretary of State not have a similar basic right to have the decision properly reviewed? Why can it not have an appeal mechanism—one that is not necessarily overly bureaucratic or lengthy? I cannot see any justification for allowing no means of appeal whatever.

The Schools Minister said that regional schools commissioners would issue a warning notice only where they thought it was warranted. If a public official or body is going to issue a warning notice that effectively tells an organisation that it is not running a school properly, the very least we expect is that the notice is warranted. If we are all supposed to be massively grateful that regional schools commissioners will not issue notices where they feel that they are unwarranted, I do not regard that as a crumb from the Minister.

James Berry (Kingston and Surbiton) (Con) *rose—*

Kevin Brennan: I see a breach in the Government Back Benchers' Trappist vow of silence.

James Berry: Will the hon. Gentleman give way?

Kevin Brennan: Not until I have teased the hon. Gentleman a bit—*[Interruption.]* He can sit down while I am doing it. In fairness to him, he has previously contributed to our proceedings.

James Berry: The hon. Gentleman is a former Minister, as he has reminded us, and he well knows that all Ministers have to act rationally. That is a basic common law requirement of any Minister, so his point does not take the argument any further, does it?

Kevin Brennan: That is why we need some form of appeal, to determine whether Ministers are acting reasonably and rationally, which is exactly what I am arguing. Rather than our having to go to judicial review and line the pockets of the hon. Gentleman's lawyer friends, we could make an amendment so that Members of Parliament could consider the matter for themselves. We could have free use of his expertise. I remind him that praying against a statutory instrument is not a common occurrence—although it happens from time to time. It is an outlet or a safety valve where there is real concern that a Minister has exercised a power in this way. I am glad that he has taken the Schools Minister's advice to get out more by joining in with our proceedings this afternoon. Some of his hon. Friends should follow that advice during the rest of our proceedings. I look forward to hearing from them. I am not convinced—*[Interruption.]* I make an exception for everyone who has done so, because I can hear some grumbling from the hon. Member for Portsmouth South. She has made a thorough and interesting contribution to our proceedings, which I welcome.

Clause 2 means that there is no safety valve. The Schools Minister said that an RSC would only issue a warning notice when it was warranted. They will be advised by their headteacher board, which will consist only of academy heads. I hope that the Minister will reconsider that. He said that there had been 40 such appeals to Ofsted and that two of those appeals were successful. We can read that in a number of ways. I have a feeling that, if all 40 appeals had been successful, the Minister would have told the Committee, "That's another reason to get rid of the appeals, which are wasting everybody's time by overturning these decisions." If two out of 40 are wrong, is it not right that those two decisions should be overturned on appeal? If a wrong decision is taken, is it not right that it should be reconsidered? I think it is right. I do not propose that we should be overly bureaucratic. I would like to know more from the Minister about the alternatives. I feel that he has made his mind up on that.

Interestingly, he said that Ofsted's reforms—bringing all its inspectors in-house—would improve quality. Perhaps the Government could learn that lesson in other areas from time to time. Contracting out is not always the answer to providing a quality public service. I will leave that thought hanging. On that basis, it is vital to lay down a marker about the importance of the principles of natural justice. I invite the Minister to give us a few more thoughts before we decide how we will dispose of the amendment.

Mr Gibb: I will be brief. I see your expression and sense that you want us to make some progress, Sir Alan. The powers that the Bill gives to the Secretary of State are identical to the power that exists for local authorities. The hon. Gentleman and other Opposition Members have not suggested in their remarks that the process of local authorities issuing a warning notice should be subject to a statutory instrument. Neither has he suggested that a byelaw is passed by the local authority before a warning notice is issued. He is asking for a process that does not apply to local authorities.

The hon. Gentleman quoted our exchanges from the Committee that considered the Education Bill that became the Education Act 2011. He cited my quotes about the insertion of a new section 69A into the 2006 Act. I refer him to clause 2(6) of this Bill, which says, "Omit section 69A". We are repealing the very section that he cited as evidence of wanting to build in safeguards for new powers. We are now repealing the very powers that we

sought safeguards over in 2011. Therefore, he should be an effusive supporter of clause 2, especially of clause 2(6). With those few remarks, I urge him to withdraw the amendment.

Kevin Brennan: I am grateful for that further clarification, if that is what we should call it. I freely accept that, as is often true on such occasions, all Opposition amendments may not cover every eventuality. We are on a journey of passing legislation, and there is a long way to go before it comes into law. That does not mean that we cannot add to the Bill on Report or when it is considered in another place.

We may well need to revisit the correct form of an appeal in relation to local authorities issuing warning notices. I am pointing out that Ministers are taking the power to issue a warning notice and abolishing any means of appeal against that, which seems a rather illiberal step for the Government to take. I ask my hon. Friends to join me in testing the opinion of the Committee on the amendments.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 11.

Division No. 2]

AYES

Brennan, Kevin	Jones, Graham
Esterson, Bill	Kyle, Peter
Haigh, Louise	McCabe, Steve

NOES

Berry, James	Nokes, Caroline
Donelan, Michelle	Timpson, Edward
Drummond, Mrs Flick	Tomlinson, Michael
Fernandes, Suella	Trevelyan, Mrs Anne-Marie
Gibb, Mr Nick	Walker, Mr Robin
James, Margot	

Question accordingly negatived.

Question proposed, That the clause stand part of the Bill.

2.45 pm

Mr Gibb: I sense from the hon. Member for Cardiff West that there is a desire for the debate to be short, and I will try to keep it so. This clause would be fine. The warning notice process is that through which an underperforming school or one with poor leadership or governance, or one where there is a threat to the safety of pupils or staff, is required to make improvements or else become eligible for intervention. The Government recognise that this process can be unwieldy and uncertain. It is dependent on the local authority and potentially on Ofsted, and it imposes on the school an unrealistically short time scale for action. How can a school demonstrate that it has taken meaningful, long-term improvement action in just 15 days? Under this clause the Secretary of State, through the regional schools commissioners, will be able to issue a performance standard and safety warning notice directly to the governing body of an underperforming school without waiting for the local authority to act and without having to direct it to issue a warning notice where it has failed to act. The warning notice process is weak, complex and flawed, and it detracts from the real issue of the school's underperformance.

There are 28 local authorities which have never issued a warning notice to any of their schools or to an interim executive board. Where action is in fact needed—whether in these authorities or not—it will now be possible for regional schools commissioners to move quickly and directly if a local authority has failed to do so. At this point, the local authority's power to issue a warning notice to that school will be suspended, to avoid the school being confused or distracted by conflicting notices. The regional schools commissioners would be able to set a realistic timescale for the governors to act. They may still set 15 days, as the law currently stipulates, but they will be free to set a different timescale where appropriate, for example, to allow time for improvements to manifest themselves in exam results. There will be no provisions for a school's governing body to appeal to Ofsted.

The clause would also remove the redundant power for the Secretary of State to direct the local authority to consider and then to issue a warning notice where it has failed to do so. We would of course still retain the power for local authorities themselves to issue warning notices, which can be effective in encouraging schools to raise standards and deal with poor governance or safety. We would allow them to be flexible in setting timescales for action. We consider that giving an additional power to regional schools commissioners to issue warning notices themselves will be of benefit and remove some delays and complexity in securing vital improvements. These measures go a long way towards ensuring that the warning notice process for underperforming schools is efficient and fit for purpose, and achieves the aim of ensuring that schools make the necessary improvements for the benefit of their pupils or become eligible for intervention. The process would allow schools—for example—to become sponsored academies. I therefore move that the clause stand part of the Bill.

Steve McCabe: I will be very brief. It seems to me that one of the central parts of the argument about this clause is whether the Minister has succeeded in persuading the Committee that he really has evidence to justify the powers that he seeks to take. Let me preface my remarks by pointing out that I like the Minister. He and I came into the House at the same time. In fact, I can remember tipping him in a poll of new Tories to be watched. Let me be clear on what I meant by that—new Tories who might succeed in climbing up the ministerial ladder, not slippery characters we needed to keep an eye on.

I should take advantage of this opportunity to clarify something raised earlier. I asked the Minister if he could cite some examples of local authorities being obstructive and say why he needed new powers. The Minister cited the example of local authorities seeking judicial review and went on to comment specifically on Coventry City Council and Henley Green primary school. I am sure the Minister did not want to mislead the Committee on this matter, but it is worth pointing out that at that time, Henley Green primary school was not in special measures. It was not a failing school. In fact, it was a school that had just received a "satisfactory" Ofsted report and some excellent comments in particular categories. What had happened was that its SATs results were way below the Government minimum. As a consequence, the Government decided that it should be part of a forced academisation programme. Before that,

[Steve McCabe]

there had been no examples of the Government forcing a school to become an academy unless it was in special measures or had failed Ofsted before.

Coventry council objected because it said that the Secretary of State did not have the power in law to force academisation in these circumstances. It pointed out that it had already met voluntarily with the head of the school and had agreed an action programme in which Frederick Bird school would buddy the school to improve the situation. It was extremely successful. Within a few months, the SATs results had moved beyond the minimum standards, and in English and Maths had risen by more than 20%. So successful was the programme that the Government decided not to challenge Coventry's decision, acknowledged that they were wrong and backed down. So it would not be right for the Minister to pray in aid this example of a council being obstructive to defend his position. This was an example of a council taking a very sensible course of action that led to the right outcome. It was a council quite legitimately seeking to test whether the Secretary of State was exceeding his lawful duties. I do not think it was the Minister's intention to mislead us, but as this is such a central part of the argument about this clause, it is only fair that the Committee should have a much fuller picture.

John Pugh (Southport) (LD): I was going to say that it is always a pleasure to serve under your chairmanship, Sir Alan, but we were both on the Crossrail Bill and I have to say that it was not a pleasure all the time.

I have something to add about the appeal mechanism. Although I think that amendment 19 is a little too heavy-handed to address the issue, I want to appeal to all Members to consider carefully the concept of appeal. With regard to governing bodies, in certain cases an appeal for them would be worthless because they can be part of the problem. I am sure that members of the Committee can think of poor governing bodies in their own areas that have very little to say in defence of poor results and performance. However, there is another side of the story and I would like to give an example from my neck of the woods.

I have in my constituency a single-form-entry primary school that fell below the standard for entirely comprehensible reasons. There were quite a lot of staff changes, which make a big difference in a single-form primary school, and the school also had intake changes produced by an increase in migrant workers. The governing body rapidly found itself trapped in a room with somebody who described themselves as a broker on behalf of the Government and said that the school must join an academy chain as soon as possible—with which, incidentally, the broker had some connection. I never knew there were such people called brokers, but there are indeed; I am simply recording what they do. I have heard many descriptions of what then went on. There was an extraordinarily abrasive and unpleasant conversation, in which the broker said that either the school must join the academy chain, or the head and the governing body—the full set—would be replaced.

Kevin Brennan: The hon. Gentleman makes an interesting point. Is he aware that some of those brokers, as revealed in parliamentary answers, were being paid up to £1,000 a day by the Department for Education to carry out the work that he is describing?

John Pugh: I have not finished describing it. A number of witnesses—people I have learned to trust—described the conversation as brutal and tantamount to bullying, and we are all against school bullying. Neither the head nor the governing body in that case was weak. They were saved at the last hurdle, because Ofsted produced a more favourable picture by bringing in objective data. The school is now thriving, and is part of the local education authority family. Had the broker got their way, it would have joined a chain, in which the nearest other school was 20 to 30 miles away. That example illustrates what can happen if some of the hurdles to what is called improvement are clipped away. Not only might there be a brutal, ineffectual intervention, but we might be endorsing a form of bullying, which we would all regret.

Kevin Brennan: I am sure we all want to confirm that we like the Minister. One of the reasons why I like him is because he welcomes the fact that when others disagree with him, they do so vigorously. He enjoys the cut and thrust of debate. We should not be misinterpreted as not liking him on a personal level.

My hon. Friend the Member for Birmingham, Selly Oak and the hon. Member for Southport have given practical illustrations of why it is important that there is a safeguard or appeal mechanism in these sorts of processes. This may have settled down a bit now, but during the early years of the coalition Government—I should point out that there were Liberal Democrat Ministers in the Department for Education—some of the activities being carried out by those mysterious academy brokers were extremely dubious. They turned up at schools and metaphorically took the headteacher for a walk in the woods with a rubber truncheon, with the express intention that, by the time they came back from that treatment, they would roll over to anything that was demanded of them—in particular, that they would join an academy chain, whether or not that was the right solution for the school. For doing that work, they were paid huge sums of public money—up to £1,000 a day—by the Government. It is right that a light should be continually shone on those sorts of activities.

In our view, clause 2 represents an unnecessary further step towards centralising control over the school system in the hands of Ministers. It does so in two ways. First, it gives the Secretary of State the power to issue a warning herself. That might seem a small step, because the difference between the Secretary of State telling a local authority to do something, which is what the 2006 and 2011 Acts set out, and doing it herself might seem modest, but it is significant. Previously, the Secretary of State had to channel warning notices through local authorities, thereby ensuring that they are engaged in the process and that schools do not receive mixed messages. The clause does not even contain any requirement for the Secretary of State to consult a local authority before issuing a warning. There is no requirement on her to inform herself properly about what has been going on, merely a right to insert herself into the process whenever she feels like it.

3 pm

The second power grab is at the expense of schools. All their rights previously written into legislation to object or appeal have been removed. If the Bill passes unamended, we will now have a system in which the

Minister's diktat must be obeyed at all times without right of appeal. Surely it should be a presumption that people affected by a ministerial decision have the right to object and to appeal. Writing out such fundamental features of natural justice, as the Bill does, should surely require evidence of a serious and unusual emergency. We need to know what is so bad about the current arrangements; we need powerful evidence that they are bad enough to justify this extraordinary increase in ministerial power.

What situations have arisen that can be addressed only by this approach because they could not be addressed by powers in existing legislation? It is not sufficient to say that not enough warning notices are being issued, or that some local authorities are not issuing them; after all, they are supposed to be a last resort and not handed out willy-nilly. The most valuable and effective school improvement work happens by agreement and co-operation. It does not need to involve legal processes. The test of a process is whether schools in difficulties improve under it, and for the most part they are improving without the need for formal action. I think that we will return to this issue when we come to clause 7, perhaps discussing further by what means, other than those envisaged in the Bill, schools can be improved.

The Minister has told us, as he has in relation to other aspects of the Bill, that he will not tolerate people trying to obstruct Government decisions, because the interests of pupils must come first. Of course they must—we are all happy to agree on that principle—but the clause assumes that every Government decision, not just by current Ministers but by any Ministers who might occupy their positions in future, is always correct. That is a very big assumption not just for this Government but for any future Government to make.

There is an important balance to strike in such matters. In a democratic society, people have the right to disagree with and appeal against Government actions. Unless there is a real emergency, Governments should tolerate that within reason, listen to those objections and consider those appeals. If the right to object or appeal is to be withdrawn, we believe that it is important for the Bill to provide adequate safeguards to ensure that schools are treated fairly. That is why we tabled amendments earlier to restore minimum timescales for compliance, requiring warnings to be reasonable in their expectations and requiring follow-up action to be taken in a more public and accountable way.

The reality, of course, is that Ministers think that taking such powers will enable them to speed up the process of academisation, whether or not that is the right route to school improvement. The Minister seems to be committed to the proposition that that is the only route to improving a school. We know that at least as many schools have improved while retaining maintained status as have improved by being a sponsored academy. We certainly have not heard from the Minister about those schools that became failing schools only after they converted to academy status.

Someone with a suspicious mind might suggest that the clause is designed to enable Ministers to interfere with local authorities' school improvement work because what local authorities do sometimes does not fit into Ministers' ideological position. It is not a good idea for Education Ministers to be one-club golfers and to have no patience with anyone who thinks it can be useful to use some of the other clubs that are available, according to the circumstances. We will not divide the Committee on the clause, but we have already registered our deep concerns about its illiberality and we may return to it later, either on Report or in another place.

Bill Esterson: We heard evidence last week that the only way to improve schools is by academisation. However, we heard that from the chief executive of a chain of academies; we did not hear it from anybody else. It is not surprising that the chief executive of an academy chain would say that, or that other people take the view that there are other routes to improve schools.

As my hon. Friend just said, the clause is about speeding up the process of academisation by removing some of the barriers; by removing the opportunity for people to appeal or slow down the process when the Government decide that it is appropriate for a school to become an academy. As several hon. Members have already said, we should look at the evidence. I served on the Education Committee in the last Parliament and we did just that. We produced a report on academies and free schools. We took evidence and travelled around the country; we got out of this place, as the Minister said that we should. We spoke to schools and took written and oral evidence right across the schools estate. We took a lot of advice; it was a very thorough inquiry. What did we conclude? We concluded:

> "Current evidence does not allow us to draw conclusions on whether academies in themselves are a positive force for change."

What did we mean by that? We meant that it is too early to say that academisation in itself is the way to improve schools. We left open the possibility that there are other ways forward, and it is important that that point is taken on board.

It is crucial that the evidence is considered when creating legislation. From the evidence taken and in the stand part debate so far, we have heard that there has been limited use of the power of issuing a warning notice by local authorities. We have heard scant evidence that the local authorities have been wrong to use that power only sparingly. The Minister spoke about what happened in Coventry, which he thought was an example of a local authority dragging its feet. However, that turned out not to be the case; it was anything but, given that there had been a better way of improving the school and resolving the issues that had led to concern in the first place. This one example did not stack up; it did not provide the evidence that the Minister hoped it would.

Indeed, there are many other forms of school improvement. When the Education Committee looked at the evidence over many years, it found that activities such as the London Challenge had produced sustained, measurable and long-term improvement in schools. When that was rolled out around the country, there was the start of a big process of sustainable school improvement. The Committee did not find that, so far, that is true when it comes to academies as a whole.

The other thing I was hoping to hear about in this part of the discussion was what it is about warning notices that really makes a difference. I intervened briefly on my hon. Friend the Member for Cardiff West on that point earlier. I hoped that the Minister would pick up the point, so perhaps he can do so when he responds. Where is the evidence of success in the use of warning

[Bill Esterson]

notices—not just the individual case studies, but where are the data backing up the success of warning notices that justify a whole clause? They may well exist. I am not against the use of warning notices but, given the importance attached to them and the fact that they are so crucial that they take up a whole clause, I would expect the Minister to justify their use per se and why he has found it necessary to amend it. Perhaps he could deal with that point.

We also heard hon. Members ask whether the change to speed up the direct intervention by the Secretary of State by using regional schools commissioners is justified. That would increase the tendency to centralise decision making and involvement in local schools. Listening to the Government over five years—and I do not think it was just the Liberal Democrat influence on the Conservatives—I thought the Government were committed to the concept of localism. The Government went on and on about localism and its importance. Yet with academisation, we have had a centralising tendency, taking everything to the desk of the Secretary of State, which is not alleviated by having regional schools commissioners.

Measures such as those in clause 2 would reduce localism further because they would take away the opportunity for consultation and the right to appeal. Where are the checks and balances? Where is the local knowledge being fed in to decisions about whether a warning notice is required? Where is the opportunity for proper, informed debate and scrutiny around such important decisions for the future of children's education in a school subject to a warning notice?

Those are the questions raised by the way the clause is drafted; and those are the questions that my hon. Friends were trying to tease out with their amendments. I am afraid they are questions that remain unanswered so far. I live in hope for when the Minister comes to respond, as everybody else has said. He is a decent and honourable man, whom we all like. We like him dearly. I am sure that, even without all these compliments, he would want to answer the questions being raised. Unless he does, the question remains about the real purpose of the proposed changes in clause 2 and elsewhere in the Bill.

I challenged the Minister on Second Reading and make the same point now. If there is more to this proposal than meets the eye, the Minister has the opportunity now to say whether his real purpose in making changes such as the increase in the use of warning notices is more than an attempt to unblock something that he claims exists but has not really been a problem—the delays caused by local authorities in the use of warning notices. That has not really been the problem that he is perhaps trying to say it is. Or is it something else? Is it something much bigger?

Is the real agenda that this is a means by which the Government are trying to get to the point where every school in the country becomes an academy, but they do not want to say so because they are worried that that would cause real concern. Is he really trying to get that through? Is that what he is trying to do? If that is the case, he should say so. In addition to answering my questions, might the Minister also take the opportunity to say whether his true aim is to turn every school in the country into an academy whether it wants to be one or not?

3.15 pm

Mr Gibb: I am overwhelmed by the kind comments from Opposition Members. I must apologise to the hon. Member for Birmingham, Selly Oak that the tip proved so abysmally wrong. I just hope that he did not put any money on it and I apologise profusely for leading him down that garden path.

When it comes to the Bill, however, I am not leading anyone down the garden path. There is no hidden agenda regarding warning notices. They are an extremely powerful tool. Once we have a less rigid compliance period, local authorities and regional schools commissioners will be able to require action and set the ambitious levels of improvement that they expect to see. If the school improves, the warning notice has delivered its result and has helped the school to take action. If a warning notice fails, there are other powers to require the school to enter into arrangements—we will come to the relevant clauses shortly—such as partnering with a more successful school, entering into a federation or collaborating with national leaders of education to ensure improvements.

Therefore, my answer to the hon. Member for Sefton Central is, "What's not to like?" The provisions actually came into being under the previous Labour Government in the 2006 Act, albeit only with Conservative support in the Lobbies. It is a good measure and we are simply extending the same power that the 2006 Act gave to local authorities to regional schools commissioners, who must act reasonably, which is important. The common law requirement to act reasonably has filtered through the debate. Public bodies, including the Secretary of State and those acting on her behalf, are required under principles established through case law to act reasonably, rationally, lawfully and fairly. They can be held to account by the courts if they fail to act in accordance with those public law principles. The Secretary of State is also directly accountable in this House for the actions of regional schools commissioners through Education Question Time and parliamentary written questions.

The five years of the coalition Government saw many successes, one of which was sorting out the economy and bringing us back from the brink of financial ruin. There are other examples across Whitehall, but I want to cite that 1.1 million more pupils are in "good" or "outstanding" schools today than in 2010, and that 100,000 six-year-olds are reading more effectively today than in 2011 as a consequence of our reforms to the teaching of reading through phonics. That figure of 1.1 million was achieved through a whole range of measures, in particular the academies programme, which, again, was started under Labour and was turbo-charged by the previous Government. There are 1,100 sponsored academies that started life as under-performing schools, which is a colossal achievement that has led directly to over 1 million children being taught in "good" or "outstanding" schools.

The hon. Member for Sefton Central also mentioned localism and questioned whether the Conservative party is truly committed to it. Yes, we are—as he almost acknowledged. The academies programme is taking

such powers to the frontline and to teachers and professionals. The academies programme is all about autonomy for professionals. It is not about delegating to another statutory body; it is about giving powers directly to teachers, so that they can do their best for the children in their schools.

Regional schools commissioners do not intervene or interfere in schools that are performing well. They are only interested in intervening when schools are underperforming.

Bill Esterson: On the point about so-called increased autonomy, the Education Committee heard evidence that schools that are in chains now have less autonomy than they did when they were maintained. How does the Minister explain that as a localism success?

Mr Gibb: I don't buy that argument. Groups or chains of academies are all about collaboration between the professionals within those chains. Those chains are often led by former or current headteachers. It is about collaboration, working together and finding a common vision. The most successful academy groups are those with a central, core vision that is developed by professionals within the chain. That best practice is then rolled out, which is how very successful chains such as Ark and Harris have managed to deliver remarkable achievements in some of the most deprived parts of the country.

The hon. Member for Birmingham, Selly Oak responded to my example of Henley Green, but I must tell him that the warning notices are not for "inadequate" schools; they are separate provisions in the Bill and the 2006 Act for schools requiring action because they need to improve and are underperforming for other reasons—for instance, poor SATs results, as the hon. Gentleman cited. That was the case with Henley Green. During the process, the results did rise above the floor, but we are talking about the floor standard. The Government agreed to withdraw the direction but maintained that it was justified at the time. We do not resile from the direction being the right thing to do. As a consequence of action, the school's standards rose above the floor.

The hon. Member for Stockport raised concerns about brokers.

John Pugh: Southport.

Mr Gibb: Southport; I apologise. The hon. Member for Southport raised concerns about brokers. We expect very high standards from brokers. While they are not civil servants, we certainly expect them to follow civil service standards of behaviour. Brokers are commissioned by officials from the Department to visit schools and report back to officials on the discussions they have had. If they are not meeting the high standards we expect of them, the hon. Gentleman should send us more details and we will investigate. In my experience of dealing with brokers, they are very professional people who are determined to raise standards.

I hope that I have dealt with all the concerns raised, and I urge the Committee to support clause 2.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 3

OTHER WARNING NOTICES

Question proposed, That the clause stand part of the Bill.

Mr Gibb: The clause would amend the process for issuing a teachers' pay and conditions warning notice—a type of warning notice that only local authorities have the power to give. Such a notice is given to a school by a local authority when a school fails to comply with a schoolteachers' pay and conditions document. Failure to comply with the notice means that the school becomes eligible for intervention. That does not necessarily mean that the school will become an academy, but it would allow the local authority or the Secretary of State to appoint additional governors or an interim executive board. It would also allow the local authority to suspend the school's right to a delegated budget if the school did not comply with the written warning notice.

The clause would amend the timescale for compliance with the notice from the current statutory 15 days to a period specified by the local authority. That will give the local authority scope to choose an appropriate period, to recognise the action that the school is required to take and to allow the school time to demonstrate that it has taken the necessary action.

Finally, under the clause, the local authority would be required to give a copy of the notice to the Secretary of State when they give the notice to the school's governing body, which will allow the regional schools commissioner to monitor more effectively local authorities' use of such warning notices. The school's governing body would no longer be able to make representations to the local authority. That will speed up the process and ensure consistency with a performance warning notice. We propose to remove the equivalent process for making representations to Ofsted.

Kevin Brennan: As the Minister said, the clause affects warning notices that relate to teachers' pay and conditions, amending section 60A of the Education and Inspections Act 2006. It raises some of the same issues that we debated at length on clause 2, and I do not propose that we do the same now.

In particular, the clause removes a school's right to make representations in response to a warning notice. However, the process as a whole is more straightforward than the one in clause 2. Removing the Secretary of State's power to issue an order clarifies responsibilities. It might be worth asking why, if it is appropriate here, it is not appropriate elsewhere.

The Opposition agree that it is important to maintain a national framework of pay and conditions or we could get into a process of a wasteful and continuous bidding war—even more than there is currently—between schools that are trying to attract staff from one another. A national framework also does something to ensure that all staff are treated fairly, reduces the ability to play favourites with staff, and has some bearing on something that is becoming more of a concern, which is the ability of heads and senior staff to pay themselves inflated salaries at the expense of other staff. That, potentially, is a growing feature, particularly in areas of the system where there is no requirement to adhere to the pay and conditions document. The Minister has taken the

[Kevin Brennan]

opportunity to explain the Government's thinking and, having had an extensive debate on clause 2 and the amendments, I do not propose to detain the Committee any further on clause 3.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clause 4

POWER TO REQUIRE GOVERNING BODY TO ENTER INTO ARRANGEMENTS

Kevin Brennan: I beg to move amendment 28, in clause 4, page 4, line 7, leave out "section 60A" and insert "sections 60A, 61 and 62"

This amendment and those to clause 7 are to find out what happens to the existing provisions in Part 4 of the Education and Inspections Act 2006 should the Government's proposed amendment to section 4 of the Academies Act 2010 found in clause 7 come into effect.

The Chair: With this it will be convenient to discuss the following:

Amendment 41, in clause 7, page 6, line 6, leave out "61 or"

The amendment removes the borderline Ofsted "Inadequate" judgement schools (schools requiring significant improvement, or notice to improve) from the scope of this new provision.

Amendment 43, in clause 7, page 6, line 10, leave out "61 or"

The amendment removes the borderline Ofsted "Inadequate" judgement schools (schools requiring significant improvement, or notice to improve) from the scope of this new provision.

Amendment 44, in clause 7, page 6, line 10, at end insert—

'(4) The Education and Inspections Act 2006 is amended as follows:

(a) in section 63 (Power of local authority to require governing body to enter into arrangement) in subsection (1) after "60A" insert ", 61 or 62"

(b) in section 64 (Power of local authority etc to appoint additional governors) in subsection (1), after "intervention" insert "other than by virtue of sections 61 or 62"

(c) in section 65 (Power of local authority to provide for governing body to consist of interim executive members) in subsection (1), after "intervention" insert "other than by virtue of sections 61 or 62"

(d) in section 67 (Power of Secretary of State to appoint additional governors) in subsection (1), after "intervention" insert "other than by virtue of sections 61 or 62"

(e) in section 68 (Power of Secretary of State to direct closure of school) in subsection (1), after "intervention" after "60A" insert ", 61 or 62"

(f) in section 69 (Power of Secretary of State to provide for governing body to consist of interim executive members) in subsection (1), after "intervention" insert "other than by virtue of sections 61 or 62"".

The amendment is to remove the inconsistency in legislation that the local authority and Secretary of State can exercise intervention powers even though the Secretary of State is under a duty to make an Academy Order.

Kevin Brennan: Amendment 28 highlights some of the confusion that may have been caused by the speed with which the Bill has been produced. We hope to obtain some clarity as a result of the debate. As it stands, it seems that there are two contradictory sets of provisions relating to schools eligible for intervention. The provisions of the 2006 Act are not being repealed so the battery of intervention techniques set out then is still in force. Clause 4 reinforces some of those by giving the Secretary of State the power to use them. Clause 7, to which some of the amendments relate, says that schools that receive an adverse inspection report must be academised. There is a need for clarity about which of those provisions has priority.

Our view is that the Bill should be making provisions for maximum flexibility. We will therefore propose to amend clause 7 to make it permissive rather than mandatory, but we will come to that later in our deliberations, possibly on Thursday.

Amendment 28 asks why the Secretary of State is seeking powers in clause 4, through proposed new section 66A, to direct a school with an "inadequate" Ofsted judgment to seek support from other bodies—in other words, to enter into arrangements—when it must be academised. Amendment 28 excludes clause 7 schools from the scope of this new power in clause 4, in order to test the Government's thinking in this area. The purpose of Amendments 28 and 44 is to enable the Government to make their position clear. Do they contemplate the use of the powers of intervention set out in this clause when clauses 61 and 62 of the Education and Inspections Act 2006 apply—that is, after an adverse inspection outcome—or do they not? If not, they should say so and make it clear that they are entirely inflexible and will always pursue academisation regardless of its suitability in any particular situation. If that is the Government's position, what evidence do they have to support it?

3.30 pm

Amendments 41 and 43 relate to clause 7, but have been grouped here. They do not necessarily fit well with amendments 28 and 44. They remove the borderline Ofsted "inadequate" schools from the clause 7 duty to academise. Can the Minister comment on that distinction in his response to this grouping?

Mr Gibb: We are now debating clause 4, a favourite clause of some Opposition Members, although that joke is probably a little bit old now. *[Interruption.]* I wrote it very late last night, so apologies to members of the Committee.

Amendments 28, 41, 43 and 44 raise the issue of how we intervene in failing schools—those which Ofsted has rated as "inadequate". The Academies Act 2010 permits the Secretary of State to make an academy order in respect of a maintained school that is eligible for intervention within the meaning of part 4 of the Education and Inspections Act. Clause 7 of the Bill amends section 4 of the Academies Act 2010. It places a duty on the Secretary of State to make an academy order in respect of schools that are eligible for intervention by virtue of sections 61 or 62 of the Education and Inspections Act 2006—schools that have been judged by Ofsted to have either type of "inadequate" rating.

There are two types of "inadequate" rating. There is a "serious weaknesses" judgment, which is defined in section 61 of the 2006 Act as requiring significant improvement. There is also a "special measures" judgment, which is defined in section 62 of the Act. A school is

judged to have serious weaknesses if one or more of the key judgments is "inadequate" or—this is an important point—there are important weaknesses in the provision for pupils' spiritual, moral, social and cultural development. I know this will interest the hon. Member for Cardiff West, who mentioned the importance of identifying and tackling extremism in some of our schools. A school is judged to be in special measures if it is failing to give its pupils an acceptable standard of education and its leaders and governors are not demonstrating the capacity to secure the necessary improvements.

Despite these distinctions, the fact is that both categories of school are "inadequate". Any school judged to be "inadequate" by Ofsted is failing its pupils and there is a strong moral imperative to act quickly to secure for them the high quality of education that they need and deserve.

Amendments 41 and 42 seek to disapply clause 7—the requirement to make an academy order—to those schools with a serious weaknesses judgment from Ofsted, leaving the power applying to only those schools with a special measures judgment. So there would not be an automatic issuance of an academy order. If the school receives a category 4 Ofsted judgment, the automatic academisation order would not apply if the judgment related to serious weaknesses and not special measures. A school with serious weaknesses may be failing in terms of pupils' behaviour and safety, the teaching it offers, or the progress and attainment of pupils. In some cases, it will be a combination of those things. I hope that hon. Members will agree that this is not acceptable and we have to take urgent measures to tackle those schools. We are talking about a group of schools that are the outliers. In England today, 20% of schools are, according to Ofsted, providing outstanding education to their pupils. A further 62% are graded "good" and 16% require improvement. Clause 7 does not affect those schools; instead it targets a small minority of schools at the very bottom, which have been judged "inadequate" and failing.

Our manifesto was clear that we would tackle failing schools from day one. I hope that hon. Members—certainly those on the Government Benches—will agree that it is absolutely right that both categories of "inadequate" schools are included in the duty as set out in clause 7. I urge hon. Members to reject the amendments tabled by Opposition Members that seek to apply that provision only to one category of "inadequate" schools.

Kevin Brennan: The Minister understands that, in tabling that amendment, we are seeking to understand exactly what his intentions are. Is he absolutely clear that it is the right thing to do to compel the academisation of a school in these circumstances, even where there is powerful evidence that another approach would work better?

Mr Gibb: Yes, the evidence of the sponsored academies is compelling: those underperforming schools that have been converted to a sponsored academy have, over a four-year period, seen their grades rise by, on average, 6.4 percentage points compared with 1% for local authority-maintained schools in the same period. Similarly, for primary schools that are sponsored academies, their results have improved by around 9%—significantly higher than the figure in the same period for maintained primary schools.

Kevin Brennan: I think that I have heard the Minister quote those figures before but will he be clear for the Committee? Is he quoting a figure of 6.4% for schools that have been academised—is he comparing that improvement with figures for schools in similar circumstances that have adopted other means of school improvement, or is he taking a figure for schools to which academisation is applied as a means of improvement and comparing them with the generality of other schools that have not had any kind of intervention of this sort?

Mr Gibb: I will come back to the hon. Gentleman to get the precise wording right; since he has asked a specific question, I want to give him the right answer. But my understanding is that those schools that have been sponsored academies for four years have improved their grades by about 6.4% compared with local authority schools over the same period. I will come back to him with precise chapter and verse on what I mean when I talk about local authority schools over the same period.

Amendments 28 and 44 both pose questions about why, given the new duty to make an academy order for any maintained school that Ofsted has rated "inadequate", we might still require intervention powers in such schools. It is a perfectly valid question. Amendment 28 specifically questions why clause 4, giving the Secretary of State the power to require governing bodies to enter into arrangements, is applicable to schools that are eligible for intervention because they have been rated "inadequate" by Ofsted—because they are going to have an automatic academy order. Amendment 44 then questions why we are retaining in the law a wider range of existing intervention powers, for instance to replace the governing body with an IEB or appoint additional governors to be used when a school has been found by Ofsted to be "inadequate".

An academy order is made in respect of a school to enable its conversion to academy status; while this Bill aims to speed up the process of achieving academy solutions in failing schools, the making of an academy order, on its own, does not mean that a school becomes an academy with an effective sponsor in place overnight. Where a school has been found to be failing, it is clear that transformation needs to take place in that school from day one in order to bring about improvement as swiftly as possible. We know from our experience that other intervention powers can therefore still prove valuable in failing schools that will, in time, become sponsored academies. Such powers may allow for the diagnosis of current problems and enable some early improvements to be made in the period before the academy solution is in place. For example, Norton Canes and Heath Hayes, two primary schools in Staffordshire, were both placed in special measures in 2012-13. In June 2013, the Secretary of State appointed interim executive boards to both schools and issued academy orders. The IEBs, which worked in a challenging environment against a backdrop of considerable resistance from those opposed to such improvements, conducted reviews of teaching and leadership in the schools and identified problems and improvements that might be made before the schools progressed to become sponsored academies in the REAch2 Academy Trust in January 2014.

The Secretary of State's additional powers to intervene in "inadequate" schools may be necessary when the local authority has taken action in the school and that has not proved effective or helpful, or to ensure effective

[Mr Gibb]

governance before a long-term solution is put in place. That was the case in the Dorothy Barley junior school, which was judged to require special measures in December 2012—the third time that it had been judged "inadequate" by Ofsted in eight years—and an Ofsted monitoring visit concluded that it was not making enough progress towards removal of those special measures. The Secretary of State appointed an IEB and issued an academy order in October 2013 with an explicit duty on the IEB to conduct the school so as to secure the provision of a sound basis for future improvement.

Dorothy Barley had been in a serious situation for some time and urgent action was required to ensure that it received the support and expertise it needed to improve rapidly and sustainably. An IEB was the best way to do that and its effective governance was important to support the school's transition to academy status in June 2014.

Clause 10 requires that local authorities and governing bodies take all reasonable steps to facilitate the conversion of a school into an academy when an academy order has been made. Clause 11 gives the Secretary of State the power to direct that school's governing body or local authority to take specified steps for the purpose of facilitating conversion into an academy.

We were asked on Second Reading what that would mean for that school's governors or the local authority. In the event that governing bodies were to fail to facilitate conversion, or to comply with such a direction, it may be necessary for the Secretary of State to put in an IEB to facilitate the conversion. I hope that helps to answer some of the issues raised by the hon. Member for Cardiff West as far as his amendments are concerned.

I have had some in-flight refuelling, so I hope that I can also provide the hon. Gentleman with the answer he required. In secondary sponsored academies open for four years, the proportion of pupils who achieved five good GCSEs, including English and Maths, in the 2014 results was 6.4 percentage points higher than they had been in their predecessor schools. In that same period, results in local authority-maintained schools were 1.3 percentage points higher than they had been in 2010—I infer that that is for all local authority-maintained schools, but if that is wrong, I will come back and correct what I just said.

The first sponsored primary academies that have been open for two years have seen the proportion of pupils achieving the expected level improve by 9 percentage points since opening: from 58% in their predecessor schools to 67%. That is double the rate of improvement seen in maintained schools in the same period, which showed a rise of 4 percentage points: from 75% to 79%. That is the national figure so it is the figure for all maintained schools and I can confirm that the 1.3 percentage points figure was also for all maintained schools. With those remarks, I hope that the hon. Gentleman will feel reassured enough to withdraw his amendment.

Kevin Brennan: I am aware that a Division in the Chamber might interrupt us, but I am grateful to the Minister for clearing up that point. He has used that statistic often in his remarks and I pointed out—perhaps not very well—during the oral evidence sessions that that is not a like-for-like comparison. That is a good reason why all such claims by Ministers should be subject to testing by the UK Statistics Authority.

I invite Ministers to do that, because there are lies, damned lies and statistics, as has been said all too often, but the UK Statistics Authority was created by the last Labour Government in order to give people some certainty and comfort about the statistics that Ministers were using. Of course, for these comparisons to be meaningful we would have to compare schools that had become sponsored academies as a pathway to school improvement with schools that took another pathway to school improvement but had been in a similar position in requiring to be improved. We will return to that and some of the evidence around that when we get to clause 7.

The Minister said that there had been a 6.4% improvement in the performance of secondary schools at GCSE.

3.45 pm

Sitting suspended for a Division in the House.

4 pm

On resuming—

Kevin Brennan: We were discussing the statistics that the Minister used in his remarks and in the evidence sessions. He provided helpful clarification of the statistics he quoted of sponsored academies improving their GCSE five A to C grades, including English and maths, results by 6.4%, compared with local authority maintained schools' increase over the same period of 1.3%. He accepted that that was a comparison between schools that had been made sponsored academies and all maintained schools, rather than a comparison between schools that had been made sponsored academies and schools with similar issues that had been subject to other school-improvement methods.

Similarly, the Minister quoted statistics for primary schools, saying that sponsored primary schools had improved their performance at double the rate of maintained primary schools, again comparing sponsored academies with all maintained primary schools, rather than comparing like with like—in other words, taking schools at a fairly low base and comparing their performance with that of all other schools, without comparing them like for like with schools that had achieved similar levels of performance but had attempted other means of school improvement. That is like saying that football teams that have engaged new managers have done better than all the other teams in the league, rather than comparing the teams at the bottom of the league that have engaged new managers with other teams at the bottom of the league that have tried something else, such as buying a new player or attempting a new formation in their play.

That is why I appeal to Ministers to subject all of their favourite statistical observations to the UK Statistics Authority for comment, so that we can have independent assessment of them. I am sure that would hugely enhance the quality of our debate and bring a better use of statistical evidence to our proceedings when considering the most effective policy for school improvement, which is why we are all here. I invite the Minister to do that.

Bill Esterson: My hon. Friend is right. I am reminded of the Labour party's attempt to get the Office for Budget Responsibility to scrutinise the budget plans of all the parties before the election. Does my hon. Friend

agree that there is a similar reluctance now to look at evidence? Does he also agree that there is a danger of the Hawthorne effect? Early examples of new initiatives tend to attract the very best people and, therefore, have better outcomes than over time. Statistical analysis should be carried out over an extended period before any conclusions are reached.

Kevin Brennan: I thank my hon. Friend for his intervention. I think that is an additional point, although sponsored academies have been with us for some time, as the Minister pointed out, so there is some long-term evidence. My hon. Friend is right that any new initiative, in whatever field but in particular in education, is likely to attract those who are most enthusiastic and have the zeal to be part of an interesting, innovative change. It is understandable that very high-quality educational leaders might be attracted to new initiatives in education, and we have to factor that into any judgment of the success of innovations. Quality teaching and leadership are scarce resources. We all want to increase the quality of teaching and leadership, but we will not do that simply by "initiativitis". We have to look into how we can grow better school leaders and better teachers through valuing them, paying and training them well, so that we attract the very best into the profession.

As the Minister fairly and accurately noted, we are trying to tease out in our amendments why clause 4 is still applicable to "inadequate" schools if under clause 7 they will be automatically academised, without being subject to the Secretary of State's discretion, if they fall into either "inadequate" category. It is interesting that, as the Minister confirmed, there are two types of "inadequate" school: those with serious weaknesses that require improvement, and those that are in special measures. That can be confusing, given the new Ofsted category "requires improvement". It is worth reminding hon. Members that "inadequate" schools can fall into either of those two categories.

The Minister confirmed that clause 4 will still apply to "inadequate" schools, despite the fact that they will be automatically academised under clause 7, because the academy order could take some time. It is not always caused by the obstructionism of ideologically motivated people, otherwise known as parents. It is often due to delays and bureaucracy in the Department for Education, problems with the legality of who owns the land and other issues that rightly have to be sorted out. The Minister said, in effect, that in the meantime it is good to be able to do other things. So he has freely admitted that other methods work. He is making a deliberate effort in the Bill to retain the ability to use other methods of school improvement in the interregnum during which the academy order is going through. We know through parliamentary answers that the orders can take years, and not because of the obstructionism of ideologically motivated people, otherwise known as parents.

It is good to have an admission from the Minister that other methods of school improvement work. We will seek, throughout our debates, to show that that is the case, and that by fettering Ministers' ability to pursue those other methods, the Minister restricts their ability to undertake effective school improvement. I do not intend to press the amendments to a vote, but if the Minister has a point of clarification, we would all be glad to hear it.

Mr Gibb: The point of comparing the 6.4 percentage point increase in the proportion of pupils who achieve five good GCSEs, including English and maths, over four years with all schools is to put it in perspective, and to highlight the way that grades have improved generally. It is the same with the primary sector. We want to put the nine percentage point increase in perspective, and compare it with how the proportion of those achieving level 4s has increased nationally so people can see the figure in context.

There is plenty of other evidence I could cite for the success of academies. There is the 2014 Hutchings et al survey, published by the Sutton Trust, which finds that the best academy chains outperform other state-funded schools, and that across the board disadvantaged students in 18 of the 31 chains in the study are improving faster than the national average. The research found that disadvantaged pupils in sponsored academies made greater improvements in the proportion of pupils with sub-level 4 key stage 2 attainment going on to achieve five A to C GCSEs with English and maths than schools in the other comparison groups. The research identifies that chains of three or more academies had a greater impact than solo academies.

The benefits of collaboration within academy chains in helping to raise standards and develop future leaders of the teaching profession were identified as far back as 2011, when a Public Accounts Committee report said that,

"sponsored academies see collaboration across chains or clusters of academies as the way forward which will help to further raise standards and develop future leaders."

Finally, in 2012 Ofsted highlighted that sponsor-led academies can make a positive difference, particularly those that are part of a well managed group or chain of schools. That is really the essence of the academies programme: professional autonomy and the excitement that the hon. Gentleman talked about, combined with the fact that there is a formal collaborative arrangement. The most successful academy chains use that collaborative arrangement to provide a central vision, which is then spread throughout the schools in the academy group.

Kevin Brennan: I want to respond briefly because the Minister has introduced a whole new raft of information at this very late stage in the debate. Again, one could probe and test some of the statements that he has just made, although I will not at this point. Yes, of course, the best academy chains do very well. They are the best academy chains, and that is why they are doing very well. When is the Minister going to cite how the worst academy chains are doing? That is the point. He is making an argument here for the whole programme, rather than for just a limited part of it. The best maintained schools actually do very well indeed, too. This is my point about having to look at all these different things. Of course, the Minister did not quote the Select Committee report, about which my hon. Friend might be about to intervene. I am reluctant to go on too long.

Bill Esterson: In the Education Committee report, there was a Sutton Trust comment that,

"most [chains] are not achieving distinctive outcomes compared to mainstream schools".

My hon. Friend is right that the best are doing best, but overall I am afraid that the evidence was not there. That is what the Select Committee found, and that is what it reported.

Kevin Brennan: I am not going to test your patience any further, Sir Alan, and, as I said, I do not intend to press the amendments to a vote. However, I look forward to the Minister's agreeing at some future point to subject all his statements on statistics to the scrutiny of the independent statistics authority.

Amendment, by leave, withdrawn.

Kevin Brennan: I beg to move amendment 29, in clause 4, page 4, line 22, leave out "creating or joining" and insert "creating, joining or leaving"

The amendment leaves open the possibility of leaving a federation and joining another as an option for a school eligible for intervention.

The Chair: With this it will be convenient to discuss amendment 30, in clause 4, page 4, line 23, at end insert—

'( ) to take specified steps to make the governing body a member of a person with whom the Secretary of State has made an Academy Arrangements under section 1, Academies Act 2010."

Although it is possible within the law for a maintained school governing body, as a corporate body, to be a member of an Academy Trust, the Government is understood not to support this course, leaving academisation as the only "hard" way a school can be involved in an Academy Trust. The amendment gives the Secretary of State the option of requiring a maintained school to be a member of an Academy Trust.

Kevin Brennan: Amendment 29 leaves open the possibility of leaving a federation and joining another as an option for a school eligible for intervention. Amendment 30 reflects the fact that, although it is possible within the law for a maintained school governing body as a corporate body to be a member of an academy trust, the Government are understood not to be particularly in favour of this course, and therefore they leave academisation as the only hard way that a school can be involved in an academy trust. The amendment would give the Secretary of State a bit more flexibility, with the option of requiring a maintained school to be a member of an academy trust. Again, here we are probing the thoughts and intentions of the Government. In amendment 29, the possibility of leaving a federation and joining another is envisaged as an option for a school that is eligible for intervention.

It might occasionally be hard for Ministers to contemplate this, but new structures do not always work. It is not always the case that when something new is invented, it will work. Some federations, as we know, have been highly successful. All parties have promoted and supported the federation of schools. However, legislation should always allow for the possibility that, in any particular case, change might not work. It is entirely possible that this might not work. I am afraid that the Bill is full of presumptions of this kind. It never allows for the possibility that Ministers' particular flavour of the month policy may not be successful, and, in some cases, may make things worse. The clause is an illustration of this, and our amendments are an attempt to tease that out. Federations can and do work, but if they do not, there needs to be a way out. That is the important point.

4.15 pm

We are not suggesting that schools, especially schools that are eligible for intervention, should be able to leave a federation any time they feel like it, but those who have required a school to join a federation also need to be able to remove it. Similarly, if a school has voluntarily joined a federation that is not working for that school, there needs to be an option for changing the arrangements. That is the gist of amendment 29.

Although it is possible within the law for a maintained school governing body, as a corporate body, to be a member of an academy trust, the Government have shown no inclination to support that course, leaving academisation of that school as the only "hard" way that a school can be involved in an academy trust. The purpose of amendment 30 is to give the Secretary of State the option of requiring a maintained school to be a member of an academy trust.

To be a member of an academy trust is to be part of the governance arrangements of the trust—in other words, a full partner in that grouping. In our view—the Minister might have a good reason why this is not the case—there is no reason for creating a hard and fast divide between maintained schools and academies. A school is a school; we all know that. Any of us who have taught in a school, visited a school, or been part of the governing body of a school—I assume we all attended school at some point, although that may not be the case—know that a school is a school. What makes a good school ultimately is the quality of its leadership and teaching. More than anything else, that determines the quality of the education that children and young people get in a school, so we should seek as many ways as possible of encouraging collaboration between all kinds of schools, whatever the label on the sign outside the gate.

The amendment is not simply technical and legalistic. It sends a message to schools of all kinds that formal status should not get in the way of their being able to work together effectively. Also—this is sometimes a real problem in the Government's approach—we do not believe that there is a hierarchy of status among schools. A maintained school is not a second-class citizen in the community of schools. It should not be denied the opportunities that are available to academies if there is no good reason for that. A school should not be required to change its status to voluntarily—or even when directed to by the Minister—participate in arrangements with other schools, whatever their category.

I have explained the reasons for the amendments. I look forward to hearing the Minister's response to what I hope he will regard as positive suggestions.

Mr Gibb: I was intrigued when the hon. Gentleman said that change might not work. He sounds very conservative in his outlook. He reminds me of Lord Salisbury, who said:

"Change? Change? Aren't things bad enough already?"

So I think the hon. Gentleman is bidding for the Lord Salisbury award of the anti-change brigade.

Kevin Brennan: I will take that as a compliment.

Mr Gibb: The hon. Gentleman is also wrong to say that we see schools as a hierarchy with academies at the top and maintained schools at the bottom. We do not. I acknowledge that there are some very good primary and secondary schools in the maintained sector in this country, and we need to do everything we can to encourage excellence throughout the system.

Kevin Brennan: Although the Minister has made a welcome statement—I wish he would say it more often—will he now accept the compelling evidence that headteacher panels should not only consist of academy heads, if that is his position, but include heads of maintained schools?

Mr Gibb: The role of the headteacher panels in each regional schools commissioner area is to advise on the brokering of academies from the maintained sector into the academy sector. Lord Nash indicated in the evidence session last Tuesday that he would consider the matter again when the Bill comes on to the statute book and panels have a greater role in intervening in underperforming schools in the maintained sector. He is right to raise that and I put on the record the same issue in the same manner as Lord Nash.

The amendments probe the intentions behind the power set out in clause 4 to require a governing body to "enter into arrangements" and how it will be used. Local authorities already have that power, but we also want regional schools commissioners, on behalf of the Secretary of State, to have the power available to them to use quickly and effectively where necessary.

Clause 4 enables regional schools commissioners to require governing bodies of schools that are eligible for intervention to enter into several different arrangements to ensure that schools take steps to improve. In some instances, a regional schools commissioner might use the power to require a school to enter into a contract with an organisation for

"services of an advisory nature",

which could include directing a school to take on support from a national leader of education or an organisation that specialises in school improvement. There are over 1,000 national leaders of education—the excellent headteachers in our school system that the hon. Member for Cardiff West mentioned—and we intend to increase this number by 400 within the next year and further beyond that.

Support from strong leaders has been shown to improve standards. Research by Sheffield Hallam University for the National College for Teaching and Leadership showed that 89% of schools had seen an improvement in their leadership and management skills, knowledge and practice and the quality of their teaching and learning since being supported by a national leader of education. A wide range of NLE support is available. Academy heads can support weaker maintained school heads and vice versa, and the focus can be tailored to the needs of the school.

Clause 4 also specifically gives regional schools commissioners the power to require a school to create or join a federation. Federations can be created under provisions in the Education Act 2002 to provide a structured collaboration for a group of maintained schools, either as a hard federation under section 24 or as collaborating schools, commonly known as soft federation, under section 26. The following words are a bit dull: the School Governance (Federations) (England) Regulations 2012 set out exactly how federations operate under section 24 of the 2002 Act. The School Governance (Collaboration) (England) Regulations 2003 set out how schools collaborate under section 26 of the Act. In short—back to the interesting stuff—the primary difference is that a hard federation operates under a single governing body, whereas soft federations keep independent governing bodies, but share a joint committee to which powers can be delegated.

Federations provide a form of structural collaboration similar to what multi-academy trusts do for academies, allowing maintained schools to support one another and share resources. In Hackney, for example, the Primary Advantage federation has considerable experience of working in partnership with schools in challenging circumstances and has been able to develop a strong teaching cadre across the federation. There are, however, important differences. Multi-academy trusts have more flexibility and freedom over their budgets, curriculum and staff than maintained schools have in a federation that remains within local authority control. The multi-academy trust structure also accompanies these freedoms with stronger accountability. Multi-academy trusts are one legal entity and are held to account rigorously for their collective educational and financial performance.

Leaders of outstanding multi-academy trusts are keen to share their views of the benefits. Stephen Moon is the executive principal of Tollbar Academy, which has been graded by Ofsted as outstanding for the past five years. He has said:

"Academy status has given me far greater flexibility and the independence to utilise staff in a way that best meets the needs of the students…Being a member of the MAT has financial benefits too, because as a large institution we can demand better value for money from contractors allowing our resources to go that bit further."

Sir Dan Moynihan, who is chief executive of the Harris Federation and gave evidence to our Committee on Tuesday, has said that multi-academy trusts ensure there is a

"strong strategic steer from the centre, but our local governing bodies are still responsible for making decisions about their schools and they are very effective."

Kevin Brennan: I am grateful for the Minister's quotes, but why does he not have any quotes from headteachers about what they feel are the benefits of being involved in a federation?

Mr Gibb: If I had longer and had done more research, I could have done that. Perhaps my hon. Friend the Member for Portsmouth South can help me.

Mrs Flick Drummond (Portsmouth South) (Con): I declare an interest: I am a governor at Milton Park primary school. We had a federation between the infant and junior school, and we have now become a primary school. We also have what some would consider a weak federation with Portswood, one of the leading schools in Southampton, which has been helping us over the past two years to reach "requires improvement". Another form of soft federation is clustering of schools within a local authority, which has also worked very effectively.

Mr Gibb: I am grateful to my hon. Friend for that helpful intervention. She is a champion of education in Portsmouth. I have visited schools with her and seen her dedication and determination to help schools raise their standards. I pay tribute to her work in Portsmouth, not only on education but more generally too.

Amendment 29 seeks to expand clause 4(1)(d), which gives regional schools commissioners the power to require a school's governing body to create or join a federation of schools as a way of improving standards. The amendment

[Mr Gibb]

seeks to introduce an additional power to require a governing body to leave a federation, perhaps so that a regional schools commissioner or local authority can direct a governing body to leave an ineffective federation and join another if that is seen as appropriate. If an underperforming school were part of an ineffective soft federation, there are sufficient powers elsewhere in the Bill to enable the regional schools commissioner to require the school to leave the federation. If a school's continued membership of a hard federation were likely to prevent improvements, the commissioner could issue an academy order on behalf of the Secretary of State.

Amendment 30 seeks to introduce a new specific section to the power. That new section appears to introduce a new solution for an underperforming school, allowing the school to remain a maintained school but collaborate with an academy by becoming a member of an academy trust but not an academy itself. We do not think that is the right approach because it would lead to an unsatisfactory compromise. Simply being a member of an academy trust would not allow the maintained school to benefit from the strong governance structure of a multi-academy trust, from shared staffing or funding, or from being part of a robust line of accountability, which is a critical element of the academy programme. Maintained schools would be denied those benefits if we accepted the proposition in amendment 30 that maintained schools could simply become a member of an academy trust rather than securing enduring structural change. Given those explanations, I hope that the hon. Member for Cardiff West will not press his amendments.

Kevin Brennan: I am grateful to the Minister for his response. As I indicated in my remarks, the purpose of the amendments is to probe the Government's thinking a little further. I note the helpful and knowledgeable remarks of the hon. Member for Portsmouth South about clusters. She made an important and pertinent point.

Once again, I urge the Minister not to give the impression that only academy schools and academy chains can deliver excellent education, because it sometimes results in a view among headteachers, schoolteachers and parents that the Government do not believe that maintained schools and academies have an equal status. I am grateful to him for putting on the record that he does not hold that view, but it would be useful if he included schools other than academies and academy chains when giving examples of excellent performance.

Mr Gibb: I can cite Elmhurst primary school in Newham, an excellent school which has had superb maths and reading results, and St Paul's Catholic College in Burgess Hill, West Sussex—my area—which I visited a couple of years ago and which is absolutely brilliant. I could cite other examples too.

4.30 pm

Kevin Brennan: We really welcome that from the Minister. Perhaps we can have a one in, one out policy in future when he praises schools, so that he will take the trouble, every time he praises an academy or an academy chain, to take the trouble to praise a maintained school. We will have achieved something by our amendments, even if we are not going to press them to a vote, if they result in that new approach. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Kevin Brennan: I beg to move amendment 31, in clause 4, page 4, line 26, at end insert—

'( ) the local authority,"

The amendment requires the Secretary of State to consult with the local authority prior to giving the governing body a notice under new section 66A.

The Chair: With this it will be convenient to discuss amendment 32, in clause 4, page 4, line 26, at end insert—

'( ) the parent council established under section 23A (Parent councils) of the Education Act 2002,"

The amendment requires the Secretary of State to consult with the Parent Council prior to giving the governing body a notice under new section 66A.

Kevin Brennan: Amendment 31 requires the Secretary of State to consult the local authority prior to giving a governing body a notice under new section 66A. Amendment 32 requires the Secretary of State to consult the parent council prior to giving the governing body a notice under new section 66A. The amendments illustrate, in a way, the problems that arise when Bills are drafted using the cut-and-paste approach to education legislation that I described earlier. That is the tendency these days. It must have something to do with the availability of modern technology and the ability to do control-C on your computer, lift something and put it into another piece of legislation. It has made things far too easy for Governments—probably all Governments—to take this cut-and-paste approach to education.

It is barely credible that even this Government would require a maintained school to enter into collaborative arrangements without even consulting the local authority or a formally constituted parent council of that school. I would like to be charitable, as we are reaching the latter stages of the afternoon and a cup of tea beckons, and suggest that this is perhaps just sloppy drafting and Ministers will not have any problem in accepting the amendments.

Just to reinforce the proposal, it is very probable in this kind of situation that the local authority will have undertaken, at the least, a range of formal interventions and will have supported the school's efforts to improve. It may also be responsible for schools that are involved in providing support and will have a view of that school's capacity, what risks there might be to its own performance, what support is available and how effective it is likely to be. Surely, therefore, it would be wise for the Department to acknowledge that it needs to listen to the expertise that is available locally, on the ground, about schools, that it needs to take account of those things that have happened before—it is unlikely that nothing will have happened at this stage—and that it needs to ensure that what it does is consistent with the overall strategy in the area, rather than undermining a strategy for improvement if there is a good one in place.

This kind of intervention, in other words, does not happen in isolation from everything else that is going on. Proper consultation is essential. That means listening

and occasionally being prepared to think again, if necessary, on the basis of what has been heard. Will the Minister clarify whether it is his intention not to require any consultation of the kind mentioned in our amendments? If not, is he prepared to accept our amendments or table his own later if there is something defective or unacceptable in the wording but he understands the gist of what we are saying and what we are trying to achieve here? If he intends not to require any consultation, will he give a full explanation as to why?

Mr Gibb: Amendments 31 and 32 both relate to clause 4. As the hon. Gentleman explained, they raise the issue of consultation in decisions about the future of the school, specifically relating to the new power that clause 4 gives to the Secretary of State. This is an identical power to that which local authorities already have. He might call that cut and paste, but it is about replicating those powers to require a governing body to enter into arrangements with a view to securing improvement in the school's performance, and giving them to the regional schools commissioners.

Clause 4 would give the Secretary of State the same power that local authorities already have to require a school's governing body to take action to improve their performance. It would give regional schools commissioners the power to require a school to take certain measures rather than having to rely on the local authority to use its power. This would only apply to schools that were already eligible for intervention. Regional schools commissioners could require a school to contract with another party—for example, the governing body of another school—to provide advisory services, to collaborate with a maintained school or further education college, or to federate with another maintained school or schools.

Clause 4 includes requirements for regional schools commissioners to consult prior to using this power. This is a different position from that in clause 7, which makes it clear that for all failing schools an academy order must be made in respect of that school. In those circumstances, there would be no further debate about what must happen to failing schools, to ensure that action can be taken from day one. For schools that have become eligible for intervention other than by being found to be inadequate, it is appropriate to give the governing body the opportunity to respond and take action before intervening. That is why there are provisions in the Bill for consultation, such as in proposed new section 66A inserted by clause 4, which states:

"(2) Before exercising the power conferred by subsection (1), the Secretary of State must consult—

(a) the governing body of the school,

(b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and

(c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed."

So there will be consultation with those bodies.

Steve McCabe: Does the Minister think that he is missing the point here? He is listing who will be consulted but those who will not be consulted are the headteacher, the staff, the parents and the local community. Is he not destroying any concept of a partnership in education?

Mr Gibb: I was not aware that the amendments suggested that, but amendment 31 proposes that the local authority should be consulted before regional schools commissioners use this power. Clause 6 introduces section 70A into the Education and Inspections Act 2006. One effect of that is that the Secretary of State must notify the relevant local authority before exercising certain intervention powers, including this power in clause 4 to require the governing body to enter into arrangements. We inserted this new requirement to notify local authorities because it is important that local authorities are aware of any proposed interventions in schools in their areas. I take the hon. Gentleman's point. We want collaboration. In the majority of cases, we hope that the regional schools commissioners and local authorities will be working well together to agree on suitable interventions, but given that RSCs may often be intervening because local authorities have failed to do so, we do not think it is necessary for the local authority to be formally consulted by the Secretary of State.

Amendment 32 proposes that where a foundation school has been required to establish a parent council then that council must be consulted before regional schools commissioners use this interventionist power. Parent councils are advisory bodies which must be established by the governors of foundation schools in which the majority of governors are appointed by the foundation trust. Other maintained schools may choose to establish a parent council, but this amendment would not require those to be consulted. Clause 4 as it stands already requires that the regional schools commissioners must consult the governing body of the school, which will include parent representatives, before the power can be exercised. In the case of a foundation or voluntary school, the appropriate diocese of a Church of England school or a Roman Catholic school must be consulted, as must the trust or foundation that appoints foundation governors in any voluntary or foundation school. The clause already ensures proper consultation with representatives of the school before the power can be used. On that basis, I urge the hon. Members to withdraw their amendments.

Kevin Brennan: It is not my intention to divide the Committee but it is important to outline the distinction between notifying someone and consulting someone. The Minister said that there is a requirement in the Bill to notify people of the Government's decision to use the powers. I might notify him that I have brought him a cup of tea with milk and sugar, but if I had consulted him I might have found out that he wanted a cup of black coffee. There is a big difference between consulting and notifying, and we should not confuse the two.

The Opposition are of the opinion that, in general, it is better to have consultation with local bodies rather than simply notification or diktat from Ministers of their intentions. A consultation need not be burdensome, bureaucratic or a nature that would hold up school improvement—unnecessary measures—but it might well, as I said in my initial remarks, bring forward information that would assist the Government or regional schools commissioners in the type of intervention under consideration. I will not press the amendment to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Louise Haigh: I beg to move amendment 27, in clause 4, page 4, line 32, at end insert—

'(2A) Before exercising the power conferred by Subsection (1), the Secretary of State must consider the long-term impact of requiring the governing body to enter into the proposed arrangements on the pay, terms and conditions of employees of the school, and satisfy himself that likely changes will not reduce the ability of the governing body to employ effective staff."

This amendment would require the Secretary of State to consider the long-term impact of academisation on the pay and conditions of teachers and other employees of the school.

This is a probing amendment that would place a new duty on the Secretary of State to consider the impact of forced academisation on the pay, terms and conditions of employees of the school and whether that would reduce the ability of schools to employ staff. Clause 4 confers on the Secretary of State the power to make arrangements where a school is considered eligible for intervention and, therefore, to take necessary actions to ensure its improvement. The Bill does not take note of the impact on teachers' pay and conditions and, therefore, the potential impact on retention or recruitment in the plan to force academisation.

In last Tuesday's evidence session, we heard that one of the biggest factors in a school's success is high-quality teaching staff, especially in leadership positions, but schools across the country are struggling to recruit entry level and senior teachers. When I put it to the Minister in our evidence session that there was nothing in the Bill to address that, he simply said:

"No; it is not about that."—[*Official Report, Education and Adoption Public Bill Committee*, 30 June 2015; c. 85, Q98.]

That is precisely what is wrong with this legislation. My amendment is intended to explore what might be done about the issue. Many of my Opposition colleagues and I would have preferred a very different focus for the first Education Bill of this Parliament, but we are where we are. You have been kind in allowing this amendment to be debated, Sir Alan.

I hope that the Minister will, at the very least, outline how he intends to address the problem and prevent the Bill from worsening it. Most academies have continued to follow the national pay and conditions set out in the blue book, despite the exhortation of the Secretary of State to abandon traditional pay scales across academies, but some academies have not and, in those cases, it is not unusual for teachers to find themselves on lower pay per hour than they would have been previously under national conditions.

The amendment relates to the use of unqualified teachers in some of the worst academy chains—most academies refuse to use unqualified teachers, in my experience—and, as mentioned earlier, to the increasingly inappropriate use of teaching assistants. Indeed, the DFE's figures show that the number of unqualified teachers has risen by 20% in the past year.

There is an understandable concern in the teaching profession that academies will move to harmonise contracts between those agreed under TUPE and those new contracts for new starters. The subsequent race to the bottom in pay and conditions could have hugely damaging implications for teacher morale and, therefore, the retention of existing teachers at a time when retirement rates in teaching are at a high not seen since the Major Government. As one head described to me last week, it used to be the case that when teachers were looking to move schools, heads and other colleagues could provide them with advice based on the leadership of that school, the geography, the demographics, and perhaps the culture. Now potential employees have to look closely at the sponsor, the pay on offer, the different maternity conditions and sick pay, or perhaps at whether the school is likely in the near future to be deemed inadequate, failing or, under this Bill, coasting, or potentially swallowed up by an aggressive academy chain.

4.45 pm

The freedom in pay and conditions, where this has been exercised, has not always had the effect of improving conditions—quite the opposite. Often teachers will lose their entitlement to sick and maternity pay built up over many years in a maintained school once they move to an academy. Therefore teachers who find themselves pregnant shortly after starting a new role can find that they only have statutory maternity pay on which to rely.

This modest amendment would mandate the Secretary of State to consider whether academisation would have such effects. It would at least address one set of concerns if some consideration of the related issues of teachers' pay and conditions and their recruitment and retention to the academy conversion process is built into the Bill. That is particularly relevant given the growing alarm across the education world about not only the failure to recruit in a declining graduate pool but retaining teachers already in post. The Committee has already heard that in the year up to 2013, the equivalent of one in 12 teachers left the state sector—the highest number for a decade—and 100,000 teachers that year never even taught once qualified.

I am sure the Minister will quote at me the 1% vacancy rate, but Professor John Howson said—as my hon. Friend the Member for Cardiff West pointed out—that these figures do not represent a like-for-like basis and certainly do not take into account vacancy rates during Christmas and other high demand times. Authoritative surveys have shown that changes to pay and conditions have led to more than 50% of teachers saying that they are less likely to stay in teaching. While that does not apply only to academies, it would be wise to accept this amendment, at least as a safeguard against the further undermining of the conditions so vital to teacher morale and therefore retention in the profession.

I gently ask the Minister why the provisions of the Bill have been made so narrow and why its impact on the development of the workforce we need has not been considered? If, as I suspect, he does not wish to accept my amendment, will he at least set out how he intends to address the concerns that I have outlined and to ensure that the Bill does not make the situation even worse? I am grateful to him for acknowledging the increasing workload that we discussed earlier. Will he consider bringing forward the workload survey that was initially planned for spring 2016 to coincide with the timeline of this legislation, in recognition of the fact that it is one of the major issues we are facing in the education system?

The crisis in recruitment and retention can only be solved by a collaborative approach from the Secretary of State with each and every school. Confined as it is by the scope of the Bill, the amendment goes nowhere near far enough, but it at least puts a duty of responsibility on the Secretary of State to look at the consequences of the provisions of Bill on the teaching professionals and the schools in which they serve. Many of them are

watching the progress of this measure with some dread for what it may mean for them. I invite the Minister to give them some hope instead.

Kevin Brennan: I congratulate my hon. Friend, particularly as someone so new to this House, for showing initiative in tabling her own amendment to the Bill and for giving my throat a rest while she did so. I am sure that during the course of the Bill we will see similar initiative taken by Government Back Benchers and I look forward to debating their amendments, as I am sure they are equally keen to scrutinise and probe the Government's intentions on the Bill properly. We obviously have a treat in store for us in our remaining debates.

Of course, national pay and conditions are effectively disapplied in academies and free schools and all this is having an impact. My hon. Friend is right to suggest that the Government should consider having a proper look at the longer-term impact of this on the pay and conditions of teachers and support staff, and on staff morale, and at the long-term impact on recruitment and retention. We know and have given warning that we feel that recruitment and retention of teachers is going to be a real issue during the course of this Parliament. I emphasise that we would like to lay down a marker that we think we see a bad moon rising, to coin a phrase, in this area. The Minister should listen very carefully to what my hon. Friend has to say. She put her amendment very coherently and cogently and therefore deserves a proper response. I am sure that she will get one.

Mr Gibb: I am grateful to the hon. Member for Sheffield, Heeley for tabling her amendment and enabling us to have this short debate. The issue about legislation is that one only legislates when one needs to. The issues that she raises are of course important but we are taking measure to deal with them. The workload challenge is an issue very dear to the Secretary of State's heart; we are determined to reduce teachers' workloads and that is why we conducted that survey, to which 44,000 teachers responded. It made it very clear where the problems lie, particularly in areas such as data collection or how people perceive that Ofsted requires teachers to conduct their marking—we are addressing those issues with the working parties that I said we had established.

The Bill enables us to deal with poorly performing schools; that is why it is a limited Bill with only 15 or 16 clauses. The hon. Member, however, is also wrong to talk about there being a crisis in the retention or recruitment of teachers. There are of course challenges with recruitment—graduates leaving university are at a premium in terms of firms wanting to recruit them. When there is a strong economy, which is often the case under a Conservative Government, there will be competition for graduates—

Graham Jones (Hyndburn) (Lab): The deficit—

Mr Gibb: We are bringing down the deficit. It has been reduced from 11% of GDP to under 5% and we will bring it down further. I say to the hon. Member for Sheffield, Heeley that over 90% of teachers continue in the profession following their first year of teaching, which has been the case for more than 20 years. Figures that say otherwise are simply inaccurate. I think that it was the Association of Teachers and Lecturers that cited some figures in the lead-up to its conference last year that were proven to be inaccurate.

The proportion of teachers joining the profession has risen—it is now 53,000 a year—and over three quarters, 76%, of new teachers are still in the profession after five years of service. More than half, 55%, of teachers who qualified in 1996 were still teaching 17 years later. I reiterate the point that I made in the evidence session that there has never been a better time than now to be a teacher, particularly an ambitious teacher. There are so many more opportunities now to lead—to lead at a younger age or to lead an academy chain—and to have the support for able and ambitious young teachers to become leaders in their profession early on. Organisations such as Teaching Leaders and Future Leaders are doing a wonderful job in helping young people to become leaders in their profession.

Amendment 27 focuses on teachers' pay and conditions and proposes adding a new subsection to clause 4. Before exercising the power to require a governing body to enter into arrangements to help deliver school improvement, the Secretary of State would be required, under the amendment, to consider the long-term impact on the pay and terms and conditions of employees. In particular, the hon. Member for Sheffield, Heeley appears to be concerned that an assessment should take place on whether any change might reduce the ability of a governing body to recruit. I understand that she is concerned about the impact of academisation.

I refer back to the core purpose of the Bill: tackling failing and coasting schools as a way of ensuring that every child in this country receives a good or outstanding education. I say this because any action that the regional schools commissioner would take on behalf of the Secretary of State would always be predicated on improving the standards of the school. Some of the actions taken might, for instance, require a school to enter into a stronger collaboration, such as a federation. That is what it is all about—this clause is not about academisation; it is about intervention in maintained schools to secure improved standards. The hon. Lady is making her argument about academies; indeed, other clauses would give regional schools commissioners greater powers to require underperforming schools to become academies. In some circumstances, academisation may in fact make it easier for a school to manage and recruit staff as well as to offer more exciting CPD opportunities. An example of this is the Templar Academy Schools Trust, which was formed in 2011 in south Devon and now contains four schools, two primary and two secondary. The staff benefit from collaboration because all four schools in the trust allow teachers to move between schools, to develop their skills and to further their careers.

Mrs Anne-Marie Trevelyan (Berwick-upon-Tweed) (Con): While a Trappist monk's or nun's main focus is to get a particular project carried out efficiently when choosing to engage in a community discussion, total silence is not an explicit vow. I want to share with the Minister that at Berwick academy—where I am a governor and led it to be an academy a few years ago—we have radically changed how we use teaching assistants, mentioned by the hon. Member for Sheffield, Heeley. We are taking on more qualified people on better pay scales to boost the impact they can make in the teaching and learning programme, both in and out of the classroom, for the children who most need that extra support.

Mr Gibb: My hon. Friend cites another good example. Again, I pay tribute to my hon. Friend for her interest in education. I distinctly remember before the previous election, rather than this one, visiting schools with my hon. Friend. She is a great asset to Berwick-upon-Tweed, and long may she remain its Member of Parliament.

Some interventions, such as the forming of a multi-academy trust, may make it easier for head teachers to be more flexible with their staffing, and offer better long-term opportunities across the academy chain. Any intervention, whether structural or the provision of additional support from a national leader of education, is taken in order to support a school to become "good". It has been noted by Ofsted and others, as I said earlier, that schools in challenging circumstances—in particular those going into special measures—often experience difficulties in recruiting and retaining good teachers. Therefore, the improvement that the Bill will bring about will ultimately make it easier to recruit.

Suella Fernandes (Fareham) (Con): Will my hon. Friend agree with the comments made in the evidence session that endorse the point he is making now, that academies, trusts and chains have greater freedoms in their budgets, on retaining excellent teachers and freedom from local authority control? That is at the heart of their success, and the Bill endorses that approach.

Mr Gibb: Yes, my hon. Friend is right. I pay tribute to my hon. Friend for the work she has done in the past few years as chair of the Michaela free school, which is a school to watch. I am hesitant to praise an academy because I will be required, on the one in, one out rule, to praise a state school, so let me praise Wroxham primary school in Hertfordshire, which is an absolutely superb maintained school, but I also pay tribute to the work that Michaela does. That is a free school that is still in its first year of year 7. When I visited a few months ago I was astonished by the standard of behaviour, the academic achievement and the knowledge-based curriculum. That is certainly a school that we shall watch closely in years to come because I think it will become an example for many other schools to follow.

Michael Tomlinson (Mid Dorset and North Poole) (Con): On the basis of one in, one out, will my hon. Friend also mention Lytchett Matravers primary school, which has recently been through Ofsted and achieved a result of "good"? I am a governor of that school.

Mr Gibb: I pay tribute to my hon. Friend for the work he does. Being involved as a governor is very important. I thank him for putting on record the excellent standards of the school he cited. If we have the opportunity to leave the building and get out, I would love to come and visit that school. On that basis, I urge the hon. Member for Sheffield, Heeley to withdraw her amendment.

Louise Haigh: I am grateful for the Minister's response and I am pleased that my amendment awakened hon. Members on the Government Benches. I am genuinely grateful that the Minister recognised the incredible workload that teachers are under, although I would correct his earlier statement. The OECD workload survey showed that teachers in this country were working on average 12 hours longer than teachers in countries surveyed elsewhere.

The Minister mentioned that the issue is not just about Ofsted, but about the perception of Ofsted. I am grateful that the Secretary of State is taking action on those working groups to look into that. I will follow that work closely. I am disappointed to hear that the Minister does not feel that there is a crisis in recruitment and retention, because I believe that his own data and surveys demonstrate exactly that. I take exception to the idea that we are experiencing strong economic growth. I was unemployed in Sheffield last year, and my brother is currently unemployed and is struggling to find work in the north of England, so I would take exception to the idea that we are experiencing strong economic growth—in the northern powerhouse, at least.

5 pm

I also take exception to the idea that it is inevitable that we will have problems with teacher recruitment just because the economy is growing. It is not acceptable that for every 1% that the economy grows, we suffer a 5% drop-off in teacher application rates. Why is teaching so uninviting to people as the economy grows? Why would they rather work in other professions? The Schools Minister's statement did not befit him, and it does not represent the statistics that have come out of his Department.

The Secretary of State recognised, in a radio interview earlier this year, that 38% of teachers leave within their first two years, and the Minister's own parliamentary answers have revealed that we are losing more Teach First graduates every year than Teach First is putting into the system. If for no reason other than cost, that is clearly a problem for our education system. I agree that there are considerable opportunities for senior leaders in the academy system and from the increase in sponsored academisation, but that does not translate into opportunities and improvements in pay and conditions for the vast majority of teachers working across the system.

We will have to agree to disagree on a number of issues, and I hope we can return to them later in the debate. I do not want to try the patience of the Chair and the Committee any further, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: Just to let you all into a little secret, the Committee was supposed to end at about 5 pm today, but as we have had a Division we are allowed to go on for a little longer. We can discuss another two amendments in the time allotted if we have some brevity.

Kevin Brennan: I beg to move amendment 33, in clause 4, page 4, line 39, at end insert—

'(5) Any expenditure incurred by the local authority under this section shall be met by the Secretary of State."

The clause leaves open how expenditure incurred by the local authority directly or indirectly (as the body which maintains a maintained school) by a Secretary of State notice. This amendment requires the Secretary of State to pay.

The Chair: With this it will be convenient to discuss amendment 35, in clause 5, page 5, line 2, at end insert

"and any term which requires the local authority to expend additional resources than it had budgeted for will be met by the Secretary of State"

The clause leaves open the possibility that the Secretary of State could pay unreasonable amounts of money to Interim executive Board members she appoints. This amendment requires the Secretary of State to pay.

Kevin Brennan: I think there has been some discussion through the usual channels that we might knock off these amendment and clause 4 stand part. That would be deemed to be acceptable progress on all sides.

The purpose of amendments 33 and 35 is to ensure that any financial expenditure incurred by a local authority is rightly covered by the Department for Education. There must be control over decisions of the Secretary of State that require additional expenditure by the local authority or the school governing body. The amendment would require that the Secretary of State pays if the cost is more than what the local authority would have paid.

The very simple principle is that if the Secretary of State wants something done, resources should be provided. It cannot be right that the Department for Education can impose unlimited costs on local authorities when local authorities have no way of controlling that expenditure. Councils, like all organisations, plan their expenditure, and cannot be expected to pick up the tab just because the DFE wants something done. I would welcome the Minister's response to these probing amendments.

Mr Gibb: Amendment 33 seeks to require the Secretary of State to reimburse local authorities where they incur any costs resulting from an RSC using the powers in the clause. Where a school is in need of support to improve, it should generally be funded from within the school's existing budget. For instance, they could bring in a national leader of education, collaborate or set up school-to-school support.

Research by Sheffield Hallam University for the National College for Teaching and Leadership showed that 89% of schools supported through the NLE programme had seen an improvement in their leadership and management skills, their knowledge of practice and the quality of their teaching. Where there is a cost involved when a school has become eligible for intervention while under the control of the local authority, it will be right in some circumstances to expect the local authority or the school to meet the costs associated with any necessary intervention. It is unlikely that any costs associated with the regional schools commissioner requiring schools to enter arrangements to improve would be any higher than if a local authority required the same action of its schools. Local authorities already receive funding from the Department to support their central responsibilities, including school improvement.

The Government recognise that ensuring schools have access to the best possible support and advice, along with capable leadership in a strong accountability framework, will help standards to improve across the board. For example, in the spring term of 2013, Gawthorpe academy in Wakefield worked with Ash Grove junior and infant community school, which was judged by Ofsted to require improvement. A specialist leader of education was provided by the academy to support the development of teaching across the school, with the aim of teachers sustaining momentum and continuing to improve their teaching after the specialist leader left. In June 2014, Ash Grove received a further inspection and was rated as "good". The Ofsted report commented on the significant improvement in teaching quality since the previous inspection. That example of one school supporting another through the SLE programme is relatively low-cost, but the results can be significant.

Clause 5 is about the appointment of interim executive board members. An IEB is a governing body appointed for a temporary period with the specific task of ensuring school improvement when there has been a decline in standards or a serious breakdown of working relationships in the governing body. If used effectively, IEBs can provide a challenge to the school's leadership and secure rapid improvement.

Amendment 35 would require the Secretary of State to pay the local authority any costs—over and above any costs it had budgeted for—incurred as a result of the Secretary of State directing a local authority as to the terms of appointment of members of a local authority-appointed interim executive board. Such terms of appointment could include setting out the roles and responsibilities of members or details for any remuneration and expenses. I reassure Members that we do not expect local authorities to face increased costs due to regional schools commissioners exercising that power on behalf of the Secretary of State. Currently, the Secretary of State and the local authority can choose to make a payment to IEB members to cover allowances as they consider appropriate. Any costs associated with the terms of employment for an IEB established by the Secretary of State should not be higher than those usually incurred by a local authority, and should certainly be reasonable given that we only expect IEBs to be in operation on a short-term basis.

The Bill is about ensuring that intervention in underperforming schools is fast, effective and deliverable. The clause as it stands will help to achieve that. In view of that, I hope the hon. Member for Cardiff West will withdraw his amendment.

Kevin Brennan: I suspect that we will not agree on what the Minister just said, but I am grateful to him for putting the Government's position on the record. These probing amendments were intended to find out more about the Government's thinking. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Mr Gibb: The clause would give the Secretary of State, via the regional schools commissioners, a power similar to the one that local authorities already have to require a school's governing body to take action to improve its performance. The Government recognise that ensuring schools have access to the best possible support and advice, along with capable leadership in a strong accountability framework, will help to ensure that standards improve across the board.

The clause would give regional schools commissioners the power to require a school to take certain action, rather than having to rely on the local authority to do so. It would only apply to schools that are already eligible for intervention. Regional schools commissioners would be required to consult first. They could then require a school to contract with another party—for example, another school—to provide advisory services, to collaborate with a maintained school or further education college, or to federate with another maintained school.

The value of schools coming together to pool expertise and resources is that they can achieve collectively what could not necessarily be achieved by an individual school. The power to direct schools to take advice and

[Mr Gibb]

collaborate would sit alongside other measures in the Bill and would form part of our new array of intervention measures to help ensure that schools improve and that children get the education they deserve.

Kevin Brennan: I shall make only a few observations in the few moments left today. The clause would be of limited significance were it not for clause 1 of the Bill, which we will come to later in our discussions. However, there is an initial confusion between this clause and clause 7, because this clause empowers the Secretary of State to take a range of action in relation to schools eligible for intervention. This category includes schools in special measures, but clause 7 states that the only action to be taken in relation to a school in special measures is academisation. We discussed that earlier on, and it was a welcome admission that methods other than academisation can actually lead to school improvements. I will not pursue that point much further in the clause stand part debate.

Clause 1 will change everything, because it reinforces our argument that it was quite wrong to take the clauses out of order. Making a judgment on clause 4, on which we are now having a stand part debate, depends on whether or not clause 1 is accepted and certainly on what the regulations on coasting schools actually say. We have draft regulations from the Government, but that is going to be a very significant factor. However, we are where we are.

Education Datalab stated in evidence to us that 1,179 schools will be classed as coasting under the definition put forward by Ministers. This is not the place to debate the rights and wrongs of this definition, but it has certainly been rubbished by quite a number of commentators. This is the place to recognise that this is the clause that will enable the Secretary of State to intervene in all of those schools. We know from the press release what the Government think will happen next. It states:

"The government's regional schools commissioners—8 education experts with in-depth local insight supported by elected head teacher boards from the local community—will then assess whether or not the school has a credible plan to improve and ensure all children make the required progress. Those that can improve will be supported to do so by our team of expert heads, and those that cannot will be turned into academies under the leadership of our expert school sponsors—one of the best ways of improving underperforming schools".

Of course, as we found out in the oral evidence session, regional schools commissioners themselves have a conflict of interest here, in that they have key performance indicators which include the percentage of schools to be academised. Again, I will not labour this point here, but we should also pause to consider the workload on regional schools commissioners. We once again raise the point as to whether or not they have adequate resources to do the job that they are being asked to do as a result of the Bill. I will not go into great detail about what that involves, but there is a huge amount of work to be done. Schools are not random pieces to be moved around the chessboard, and I do not think that even Garry Kasparov could move 1,000 pieces around a chessboard. We are asking eight regional schools commissioners to take on an awful lot here, and we know that even the Department for Education is not coping with its current responsibilities. As the National Audit Office pointed out:

"The Department does not yet know why some academy sponsors are more successful than others".

In conclusion, of course we can pass this particular clause. We are probably about to do so—I am glancing around the Committee Room to check the strength of the Opposition against the Government. We can pass this clause, but if we do, we should not imagine that it will have anything like the impact that Ministers are claiming. Nevertheless, the press release has been issued and headlines have been gained as a result. By the time everyone notices that not a lot has changed, it will all be forgotten and I suspect that it might be time for another ministerial initiative.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

The Chair: That concludes today's business.

Ordered, That further consideration be now adjourned. *—(Margot James.)*

5.14 pm

Adjourned till Thursday 9 July at half-past 11 o'clock.

Written evidence to be reported to the House

EAB 09 PTA UK

EAB 10 Janet Downs

EAB 11 Christopher Curtis

EAB 12 National Secular Society

EAB 13 London Diocesan Board for Schools

EAB 14 Association of Teachers and Lecturers

EAB 15 Bill Griffiths

EAB 16 Pete Bentley

EAB 17 Adoption UK