PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

EDUCATION AND ADOPTION BILL

Seventh Sitting

Thursday 9 July 2015

(Morning)

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PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£5·00

PBC (Bill 004) 2015 - 2016

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Monday 13 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

Thursday 9 July 2015

(Morning)

[Sir Alan Meale *in the Chair*]

Education and Adoption Bill

Clause 5

Appointment of interim executive members

11.30 am

Kevin Brennan (Cardiff West) (Lab): I beg to move amendment 36, in clause 5, page 5, line 4, at end insert—

(a) Where a school has been designated by order under section 69(4) of the School Standards and Framework Act 1998, the interim executive board shall be under a duty to secure that—

(i) the religion or religious denomination of the school is preserved and developed, and

(ii) the school is conducted in accordance with the school's instrument of government (except in relation to the composition of the governing body) and the foundation's governing documents, including, where appropriate, any trust deed relating to the school.

(b) In exercising any powers under this schedule, the Secretary of State shall comply with any agreement between the local authority and the appropriate diocesan authority, if any, and person or persons by whom the foundation governors are appointed, in relation to the membership and operation of the interim executive board."

The amendment is to preserve the religious character of religious schools when the Secretary of State takes responsibility for an Interim Executive Board.

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

Amendment 37, in clause 6, page 5, line 25, at end insert—

'( ) Subsection (2) has no effect if the local authority is exercising a power under sections 63, 64 or 66."

The amendment is to avoid the confusion to a school if the local authority is exercising a power of intervention.

Amendment 38, in clause 6, page 5, line 39, at end insert—

'(3) A notice by the Secretary of State under this section cannot take effect until 21 days after it has been given."

The amendment is to provide for an orderly transition from a local authority established IEB to a Secretary of State directed IEB.

Kevin Brennan: I welcome everyone back, and it is a pleasure to serve under your chairmanship again, Sir Alan.

Amendment 36 is intended to preserve the religious character of religious schools when the Secretary of State takes responsibility for an interim executive board. Amendments 37 and 38, for the benefit of Members who have not sat on many Bill Committees in the past, refer to the next clause—clause 6. Amendment 37 is intended to avoid confusion to a school if the local authority is exercising a power of intervention. Amendment 38 is intended to provide for an orderly transition from a local authority-established interim executive board to a Secretary of State-directed interim executive board.

The aim of the lead amendment is to put in place safeguards to prevent regional schools commissioners perhaps unintentionally undermining the Church-appointed majority of an interim executive board. Usually such a board is put in place following discussions between the local authority and the diocese, with carefully considered agreements as to its operation, including in relation to its members. To that end, the diocese and local authority agree a memorandum of understanding, which enables the school to continue to comply with its trust deed through a Church-appointed majority on the interim executive board.

The Catholic Education Service has made representations on how the clause might affect Catholic schools. Should regional schools commissioners intervene and appoint their own members to an interim executive board without regard to the Church-appointed majority, the CES says that the school would then cease to be a Catholic school. Once a school is no longer recognised as Catholic by the bishop, it is no longer complying with its own trust deed, presumably forcing a closure that ultimately undermines the intention behind an interim executive board, which is to prevent the closure of the school, as well as to bring about the necessary improvement.

That issue could apply to a school of any faith. The purpose of the amendment is to ensure that the appointment of an interim executive board does not undermine, inadvertently or not, the faith character of a school. The amendment has been drafted with the agreement of the Catholic Education Service. It would provide the safeguards that faith groups are asking for without in any way undermining the process of school improvement. It also illustrates the complexity of governance issues and the care that local authorities have taken over the years to work with partners such as dioceses. We hope that Ministers will appreciate how sensitively such matters need to be handled and therefore that they will be willing to accept the amendment. I look forward to the Minister's response.

Amendment 37, Mr Chope, relates to clause 6—

The Chair: They have called me a lot of things.

Kevin Brennan: I beg your pardon, Sir Alan. I apologise profusely.

I was getting very far ahead of myself and going on to the next clause, but amendment 37 is grouped as it is because it is designed to alleviate confusion for schools that are undergoing an intervention following a warning notice or a poor Ofsted rating. It does not really make sense to create more confusion and uncertainty for headteachers, senior leadership teams and the rest of the school community by having schools undergo various interventions, both from local authorities and the Department for Education. That would obviously not be conducive to effective school improvement, if that is the Government's intention. If it is another means to force academisation on a school, which might have

found a more effective and appropriate way to improve standards and outcomes for children, they will obviously not agree with this concept. We think that the amendment is sensible and hope that it will get a similarly sensible response from the Minister.

Amendment 38 would also amend clause 6. It requires 21 days' notice to be given before the Secretary of State may act under proposed new section 70C of the Education and Inspections Act 2006, given that it will be extremely confusing for a school not to know how quickly the Secretary of State's intervention under this section will take effect. The amendment would allow an orderly transition between interventions. We believe that the amendment is sensible and therefore anticipate that the Government should not really find any reason to reject it—but you never know, Sir Alan; they might come up with something.

The Minister for Schools (Mr Nick Gibb): Welcome back to the Committee, Sir Alan. It is a pleasure to serve under your chairmanship yet again.

The amendments relate to the Secretary of State's proposed powers of intervention in underperforming schools in order to secure the necessary improvements in standards, and in particular, they relate to the appointment of interim executive boards.

Clause 6, which is the next clause that we come to discuss in more detail, seeks to amend the Education and Inspections Act 2006 by adding three new sections: sections 70A, 70B and 70C. The first new section—section 70A—would ensure that local authorities and the Secretary of State notify each other when they intend to intervene in a school. The second—section 70B—would restrict a local authority's intervention powers when the Secretary of State is using her similar intervention powers. The third—section 70C—would allow the Secretary of State to take control of a local authority-appointed interim executive board. The new sections aim to ensure that local authorities and regional schools commissioners work together in identifying appropriate interventions in underperforming schools to secure improvement.

Amendment 37, tabled and moved by the hon. Member for Cardiff West, seeks to amend the new section 70B. Clause 6(3) of the Bill states that when a local authority is notified by the Secretary of State that she intends to exercise any of her intervention powers, the local authority's powers of intervention are suspended. Amendment 37 would mean that if the local authority was already exercising those powers, they would continue to be able to do so even if notified that the Secretary of State and the regional schools commissioners intended to intervene.

The amendment would therefore create confusion. The governing body would be required to comply simultaneously with directions from both the local authority and the regional schools commissioners. It would also mean that the local authority could continue with interventions that the regional schools commissioner for that area had considered to be ineffective. When the regional schools commissioner considers that a local authority's action is having little or no effect, they should have the power to take their own action without the school being confused or distracted by conflicting interventions. Regional schools commissioners need to be able to take action to secure improvement in that school when improvement may have stalled.

The need to act swiftly and decisively when a local authority's intervention is not working also leads me to resist amendment 38. It focuses on the proposed new section 70C, which would be inserted in the 2006 Act by virtue of clause 6 of the Bill. That section would ensure that if the local authority has put in place an interim executive board, the Secretary of State can take over the responsibility for and management of that board where necessary. Amendment 38 would have the effect, so ably described by the hon. Gentleman, of requiring the Secretary of State to give the local authority 21 days' notice before taking over responsibility for that locally appointed interim executive board. In my view, that waiting period would add unnecessary delays to the intervention process in cases in which immediate action is needed. IEBs are put in place to secure rapid improvements in the schools in which they are appointed. Where that is not happening, the regional schools commissioner should have the power to take over the responsibility for the IEB members.

Under the new power in the Bill, the Secretary of State would have been able to take over the responsibility for the IEB members at the Pear Tree school in Derby. That school has a history of underperformance. The local authority appointed an IEB to the school in May 2012, but six months later, after being inspected in November 2012, the school was put into special measures. The Department tried to work with the IEB and issued an academy order, with a strong sponsor, in March 2013, but the IEB would not co-operate, so progress at Pear Tree school remains slow and attainment is not good enough. It is those situations in which the Secretary of State, through the regional schools commissioners, will want to intervene swiftly. Delaying that process by adding 21 days in all cases would not help the children who were being failed in their education.

Amendment 36 focuses on scenarios in which the Secretary of State makes a direction about a local authority IEB in respect of a Church school. The Churches are important deliverers of education in our system, but sometimes Church schools, like other schools, fail, and we have to be confident in our capacity to respond decisively and effectively in those cases, too.

Paragraph 10(2) of schedule 6 to the 2006 Act requires the IEB to comply with the same duties as applied to the previous governing body. That will include any duty to comply with a trust deed, as referred to by the hon. Member for Cardiff West. Members of a Church school's IEB are therefore bound to preserve and develop the school's faith character. That is the case even where the Secretary of State uses the new power under clause 5 of the Bill to direct the local authority to appoint specific IEB members. Proposed new paragraph (5B)(a) of that schedule, proposed by amendment 36, is therefore unnecessary, as it simply restates a requirement that already exists.

New paragraph (5B)(b), which is also proposed by the hon. Members for Cardiff West and for Birmingham, Selly Oak, is concerned with protecting the continuing involvement of the relevant diocese where a regional schools commissioner exercises the power under clause 5 to direct the local authority to alter the make-up of an interim executive board in a Church school. It would require the RSC to comply with any existing agreement between the local authority and the diocese about the membership and operation of the IEB.

[Mr Nick Gibb]

An IEB is responsible for protecting the character of a Church school, as well as securing educational improvements. When making directions about an IEB in a Church school, regional schools commissioners will be expected to discuss the IEB with the diocese. That includes how it is constituted and what support the diocese might offer, as well as any specific concerns or requirements relating to the school's character.

Kevin Brennan: I am obviously listening carefully to the wording that the Minister is using, because what we have on the record at this point will be very important in relation to what happens next. He said that regional schools commissioners would be "expected to discuss". Can he confirm that by that he means that the regional schools commissioners will be required to discuss these matters?

Mr Gibb: The hon. Gentleman should be aware that they are not "required" now. The memorandum that he referred to—the memorandum of understanding between the local authority and the diocese—is agreed only as a matter of practice and not a legal requirement. In the same way, we do not need a requirement in legislation to agree membership between regional schools commissioners and the diocese. However, we have reiterated, or I have done so just now, our desire that these two parties will work together and reach agreements in practice.

11.45 am

Kevin Brennan: May I press the Minister a little further on that point? Is he willing to say on the record that, in all cases, he expects RSCs to discuss these matters in the way he outlines?

Mr Gibb: One can never state on the record in parliamentary proceedings the situation in all circumstances, but I am happy to reiterate that, as a matter of practice, it is important that regional schools commissioners discuss the membership of an IEB with the diocese. There may be circumstances, although I am not aware of what they might be, when that is not possible, but the desire is the same kind of desire that is in the memorandum of understanding between local authorities and dioceses to continue with regional schools commissioners. The London Diocesan Board for Schools has submitted written evidence welcoming

"the Secretary of State's willingness to become pro-active in the formation of IEBs as proposals initiated by the Diocese have not always been acted on as quickly by local authorities as we would like."

There is therefore support for these measures from the Church.

The purpose of the power is to enable regional schools commissioners to intervene swiftly when they are not convinced that an IEB constituted by the local authority will secure necessary improvements. The amendment would restrict that power by requiring regional schools commissioners to endorse an IEB whether or not they have confidence in it. That contradicts the clause's purpose, which is to allow the Secretary of State to act decisively on underperformance.

We value the Churches' important role in our education system, a role that predates the role of the state. Indeed, I have already written to the Second Church Estates Commissioner, my right hon. Friend the Member for Meriden (Mrs Spelman), to reassure her of our continuing desire to work closely with the Church. My letter set out that if the Secretary of State is required to issue an academy order to a Church school that is inadequate under clause 7, there is a requirement under the Bill to consult the diocese on who might be the best sponsor for the school. In other cases of intervention, such as if a Church school is coasting or an underperforming church school has failed to comply with a warning notice, we will still seek the diocese's views if we propose to make an academy order, as is required by section 4(1)(a) of the Academies Act 2010. We want to ensure that there are effective interventions in underperforming schools both to secure improvement and to protect their ethos. We already have non-statutory memorandums that set out the roles of the Church and the Government in relation to the academy programme. We have offered to review and update those memorandums with the Churches to reflect the changes in the Bill, as well as changes in the wider evolving party landscape. I am pleased that the Churches have confirmed their intention to work with us.

Suella Fernandes (Fareham) (Con): Does my hon. Friend agree that the Opposition's suggestion does not strike the right balance? If we allow discretion to be introduced, including a requirement would go too far and would be restrictive. The current draft strikes the right balance between consultation and inclusion, while allowing the intervention power to be exercised.

Mr Gibb: My hon. Friend is right. The amendment tabled by the hon. Member for Cardiff West would go beyond the current position of discussions between the Church and a local authority. With those assurances, I urge him to withdraw his amendment.

Kevin Brennan: I am grateful to the Minister for his response. If I am going too far, it is only because I have been asked to go too far by the Catholic Education Service, which has been working closely with the Church of England on these issues. I am sure that they will have listened intently to the Minister's response to the amendment and my interventions. I am pleased that he has put on record the Government's thinking and their intentions with regard to the responsibility to preserve and develop the character of a school, which he says is covered elsewhere. I am glad that he has taken the trouble to put that on record. We will ponder what he has said carefully and, if necessary, return to the matter at a later stage of our proceedings. I do not intend to press amendment 36 to a Division.

On amendments 37 and 38, the Minister's example of Pear Tree school did not seem to indicate that a 21-day notice period would be unreasonable. He said that there had been unreasonable delays because the Secretary of State did not have at their disposal the power conferred by the clause, and that if they had had that power, they would be able to act much more quickly in the case of Pear Tree school. Amendment 38 would simply provide for a reasonable period of notice.

I do not intend to pursue the matter further at this stage, but it would be useful to know what is considered to be reasonable. I know that the Minister is well meaning in his wish to take action if a school requires it, as we all do, but this reminds me of something that my father used to say to me: "Come here immediately, if not sooner." Although our desire to act quickly is commendable, we must be reasonable. People must have the opportunity to respond to action proposed by the state, and we are simply trying to probe the Minister on what he believes a reasonable period to be.

Mrs Flick Drummond (Portsmouth South) (Con): Twenty-one days is four weeks, which is nearly half a term. That is quite a long time in the academic year, so does the hon. Gentleman agree that we need to get things going pretty quickly?

Kevin Brennan: I have occasionally made the odd mathematical error while on my feet in the House of Commons, so I will not tease the hon. Lady about 21 days being four weeks, but I know what she means. I will interpret her remarks in a generous way by assuming that she is referring to working days, not that Government Members have always been so generous when I have made mathematical errors. I did get a grade A in my O-level which, according to the Minister, is at least a PhD in current parlance.

I take the hon. Lady's point, but the purpose of amendment 38 is simply to probe the Minister on what he considers to be a reasonable period. I am not sure that we have found out the answer, but at some point I am sure that that we will.

Finally, I turn to amendment 37. As the shadow Secretary of State, my hon. Friend the Member for Stoke-on-Trent Central (Tristram Hunt), pointed out on Second Reading, the clauses on the powers of regional schools commissioners and the actions of Ministers really show the disjuncture in the Bill between the centralisation of power with Ministers and their appointees, and the Government's professed desire to devolve public services out to the regions. The way forward ought to be a process of pulling together combined local authorities, as the Government envisage doing in other contexts as a means of devolving power. Some might think that that process is a means of cutting expenditure, but let us take it at face value as a means of devolving power around the country. The Bill is not an example of that. Even if regional schools commissioners have local headteacher boards that are entirely made up of academy heads and principals, that is not the sort of devolution of power that is required. Ultimately, the combined authority approach would be much better.

Mr Gibb: The academies programme is about devolving power to academies, professionals and front-line staff, and combining that with strong accountability. This is the model that, according to OECD evidence, works throughout the world to deliver the highest-performing education systems.

Kevin Brennan: I will not test your patience, Sir Alan, by debating at length with the Minister what the OECD actually says; he and I have had such debates in the past. The OECD favours school autonomy in the education system, and we, too, believe that autonomy is important for schools and that they should not be held down unnecessarily by regulations. However, that does not necessarily mean that there should be no accountability in the system. Here, the accountability is simply to the Minister, who is a long way from those local schools.

The importance of having some accountability at the local and regional level began to be recognised with the appointment of regional schools commissioners. There is an understanding that Ministers actually cannot cope with all the schools that now come under their ambit—they cannot keep an eye on them. Things have gone wrong at lots of academies, and they have been allowed to go wrong because Ministers did not wake up quickly enough to what was going on at local and regional levels. In the past we have proposed ways of trying to bring accountability closer without interfering with the necessary autonomy that professionals and schools should have in running their affairs. That, in fact, has been a trend in our system for some considerable time. 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 appointment of an interim executive board is one way in which a local authority can intervene in a school that is eligible for intervention. The clause enables the Secretary of State, via the regional schools commissioners, to direct local authorities as to: who the IEB members should be; how many members to appoint; what the term of appointment should be; and the termination of any appointment. That will enable the Secretary of State to contribute to the make-up and arrangements of the IEB when it is felt that the local authority is best placed to take that forward, without the need for the Secretary of State to take complete responsibility for the IEB under the new power under clause 6.

IEBs can be used to drive school improvement when there has been a decline in standards or a serious breakdown of working relationships in the governing body. When used effectively, IEBs can provide challenge to the leadership of a school and secure rapid improvement. The power will help to minimise the number of IEBs that are not working at their most efficient, either by being too big or by having members with incorrect skills sets. A poorly constructed IEB will take longer to make improvements and therefore deny children the quality of education they need and deserve. Regional schools commissioners will work with local authorities to ensure that IEBs secure solid platforms from which their schools can improve. The Bill is about making sure that intervention in underperforming schools is fast, effective and deliverable, and the clause will help to achieve that.

Kevin Brennan: Again, the Minister is taking the power to take over another part of the school improvement process pretty much whenever he wants. As always, no one knows when that power will be exercised because there are no criteria in the Bill to tell us when it might be appropriate, so local authorities will be looking over their shoulders and wondering when their decisions will be interfered with.

[Kevin Brennan]

Why do Ministers want that power? Are sure that they always know best? Do they not trust anyone else to make decisions? Do they want to ensure that their favoured trustees get appointed? They have a degree of form in that respect, as they have appointed proposed sponsors to interim executive boards in a not very subtle way, thus pre-empting further due process with regard to academisation.

There is no transparency in the IEB-appointing process. No applications are invited, no criteria are published and no reasons are given for the decisions finally made. Those decisions may well be delegated—they probably will be—to regional schools commissioners. There should be a basic requirement for Ministers to take responsibility for those decisions and to be prepared to justify them in public, rather than in the secretive way they currently do. Removing a governing body from a school is a drastic step that will have a substantial and lasting effect. We have tabled an amendment that would require IEBs to be appointed by order so that there could be appropriate scrutiny and Ministers would have to justify decisions in a public forum.

12 noon

I refer to the evidence given to us by Emma Knights of the National Governors' Association and by Councillor Richard Watts, on behalf of the Local Government Association. Emma Knights said:

"I do not want to leave this room without mentioning interim executive boards, because there is more than one type of formal intervention and so far the Committee has asked only about sponsored academisation."—[*Official Report, Education and Adoption Public Bill Committee,* 30 June 2015; c. 16, Q33.]

She noted the importance of interim executive boards, which we all recognise. From time to time, they should be appointed; that is certainly the case. However, Councillor Watts added:

"One thing I would add is that local authorities face some bureaucratic hurdles in trying to place IEBs on schools that we think need some intervention. One of the changes to the Bill that we would like to see is to give local authorities the power to introduce IEBs without having to go through the process of applying to the Secretary of State, as that allows us to tackle problems more quickly."—[*Official Report, Education and Adoption Public Bill Committee,* 30 June 2015; c. 17, Q35.]

It is a one-way process. Local authorities do not get the chance to act "immediately, if not sooner", but Ministers grant that power to themselves.

Back in 2013, Lord Nash scolded local authorities for not using IEBs enough, but it was pointed out at the time that Ministers themselves had used their power to impose an IEB on only four occasions—another example of Ministers confusing simple structural change for actual improvement.

As with clause 4, the introduction of the coasting schools category will massively increase the number of schools for which an IEB might be considered. It will be harder for Ministers or regional commissioners to know enough about the situation to make properly informed decisions. That is the point I made on Second Reading, as did my hon. Friend the Member for Stoke-on-Trent Central (Tristram Hunt), who said:

"We believe that it is time that decisions to do with new schools and intervention in failing schools were made at a combined authority level. Regional schools commissioners are far too distant to understand the distinctive context of every school and community in their region and we share the criticism from the National Governors Association of the capacity of commissioners to carry out their functions effectively."—[*Official Report, Second Reading Committee,* 22 June 2015; c. 657.]

He went on to say that the Labour party would argue in Committee, as I am doing now, that we should reshape the thinking on having some kind of combined authority level. That would at least mean that if all these additional schools are brought into intervention, there would be a less distant and better-informed local opportunity to understand what was needed and act accordingly. Giving the Secretary of State this unfettered and unscrutinised power risks decisions being made without real understanding of the local situation. Such decisions will not be in schools' best interests.

At this point, we have a lot of business to conduct, so I do not intend to press the amendment to a vote. However, we might want to return to the broader issue of combined authority on Report.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Clause 6

Interaction between intervention powers

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

Mr Gibb: The clause requires a local authority to notify the Secretary of State before using its intervention powers. The Secretary of State, through regional schools commissioners, is also required to notify the local authority before they use their powers. From the point that the regional schools commissioner notifies the local authority that they intend to intervene in a school, the local authority's powers to intervene are suspended.

The clause states that if the local authority has put in place an interim executive board, the Secretary of State can take over responsibility for IEB members. If that happens, the notice given by the local authority to the governing body, setting out that it will consist of interim executive members, will be treated as having been given by the Secretary of State along with anything else done by the local authority in relation to the IEB. The Secretary of State will have as much responsibility for IEB members as the local authority had before.

Once a school is eligible for intervention, the local authority or the Secretary of State can use their powers of intervention. In practice, the clause means that the local authority and regional schools commissioners will need to work together in identifying the action that should be taken in underperforming schools. When the local authority has already intervened in a school and the regional schools commissioner feels that a different approach is needed, the regional schools commissioner can decide to exercise the Secretary of State's powers. From that point, the local authority will be restricted from intervening further. The regional schools commissioner can give permission for the local authority to continue with its intervention if that is the best thing to do.

Many local authorities, such as Bristol and Essex, are working well with schools to improve educational standards and provisions, but some do not make full use of their interventional powers and are too slow to act in relation

to underperformance and it is these authorities over which we expect the regional schools commissioners to exercise the Secretary of State's power. The clause will allow regional schools commissioners to understand in which schools the local authority has intervened and to use the powers in the Bill to work with the schools to make improvements. This is all about improving standards in schools where they are not high enough.

Kevin Brennan: Listening to the Minister, I wonder why he does not go the whole hog by abolishing local authorities altogether and replacing them with appointments from the Minister because—*[Interruption.]* That was probably unwise. I am sorry; I might accidentally have prompted a Government amendment at a later stage of the Bill. Could we strike that from the record?

It makes me wonder: what is the role of a democratically elected local authority not only when the Minister intervenes occasionally when there is an extreme issue and a need for state power to be exercised at a local level in a draconian way, but when he has decided to appoint a group of unelected and unaccountable people who can exercise the Secretary of State's powers on her behalf and, to use the Minister's word, restrict what local authorities do? Local authorities have to go cap in hand and ask for the permission of these appointed persons to act in relation to the schools in their area. The Government need to think this through in relation to what is said everywhere else about devolution. There is a disconnect between that and what the Bill will do to our education system.

Clause 6 claims to sort out how the intervention powers of the local authority and the Secretary of State interact. The way that the Minister has described it, it is hardly an interaction. The key is proposed new section 70B, which basically says that the local authority must give way to the Secretary of State or the regional schools commissioner acting on the behalf of the Secretary of State whenever she, or they, want to intervene—no matter how involved the local authority has been and how effectively the local authority might have been working with the school or how effectively the local community thinks that the local authority was working with the school.

Similarly, proposed new section 70C allows the Secretary of State or the regional schools commissioner—an appointed person, accountable to no one other than the appointed Minister of the Crown—to take over an interim executive board that has been set up for the express purpose of taking over from a governing body and taking any action necessary to improve a school.

Suella Fernandes: I note the hon. Gentleman's concerns. However, what does he suggest should be done if a local authority fails to pick up on a failing school? Sir Daniel Moynihan highlighted that problem in the evidence sessions:

> "If a school fails, it will not normally be because of something that has happened overnight; it will be because of a gradual decline in performance over a period of time. The local authority should have picked up on that and used its resources to do so".—[*Official Report, Education and Adoption Public Bill Committee,* 30 June 2015; c. 13, Q22.]

Therefore, his view as an independent expert is that there should be a power for someone else to intervene. Is that not what the clause is getting at?

Kevin Brennan: I certainly respect the work that Sir Daniel has done in the field of education, although he is not entirely independent with regard to this issue. He showed in his evidence that he has a particular view about one particular means of school improvement, although the independent evidence does not show that it is the only one that can be successful.

I am certainly not saying that the Secretary of State should not have powers to intervene from time to time. I am just highlighting the extent to which those powers are being massively increased by the clause, and the fact that the general public have little understanding of who and what the people being appointed by the Secretary of State are and what resources and powers they have. The Bill is massively expanding all of that without accountability. At the same time, the Government are saying that the way to improve the quality of every other area of our public services is to devolve power and to encourage bodies that are democratically accountable locally to work together and with the Government.

Mr Gibb: This programme is about devolution to the academy level. The regional schools commissioners have no intention of engaging with or intervening in schools or academies that are performing well. In the majority of cases, we expect local authorities and regional schools commissioners to work together to decide where to intervene when there is underperformance, but some local authorities have been ineffective. There are 28 that have never appointed an IEB or issued a warning notice, and Ofsted has judged 12 to be ineffective, often for their poor use of their intervention powers. We need these reserve powers to intervene when there is insufficient action by local authorities.

Kevin Brennan: On the one in, one out rule, one could say that there are often academy trusts that fall into that category. I am sure that the Minister has seen Ofsted's report on the focused inspection of the Collaborative Academies Trust, dated 25 March 2015, which points out that there are real problems with the rapid expansion of the academies programme and that there are serious weaknesses from time to time in the work of academy trusts.

Of course it is possible that local authorities will need intervention. My point is that the Government's philosophical approach, which is to centralise all power with the Secretary of State, not genuinely to devolve power to a local level, is at odds with their approach elsewhere, and it will ultimately lead to the sorts of problems we have seen in lots of areas where there is not that level of accountability.

One has to call into question, as we have done—this has not been answered adequately—the capacity of regional schools commissioners to take on all these additional responsibilities. When we debate clause 1, we will discuss the fact that the huge expansion in the number of schools that will be eligible for intervention by regional schools commissioners will emphasise that capacity problem.

Louise Haigh (Sheffield, Heeley) (Lab): I am conscious of the Minister's previous intervention. Does my hon. Friend agree that the powers are not reserve powers? It was made clear during our debate on Tuesday that the

[Louise Haigh]

interventions of regional schools commissioners or the Secretary of State would trump local authority warning notices. This is not about intervening when local authorities fail to do so, but about centralising all power in the Secretary of State's hands, as my hon. Friend is making clear.

Kevin Brennan: My hon. Friend makes a good point because there is no need to justify why they are doing it. There is no need to provide the evidence that the action is necessary. The Secretary of State or the regional schools commissioner, acting on behalf of the Secretary of State, can just decide to do it.

12.15 pm

That indicates that it is all about trumping what local authorities do, rather than letting them get on with the job effectively. It is about enhancing the power of the Secretary of State; it is a centralisation of power. Again, I emphasise that we would like to see some thinking about a combined authority model in education to ensure that we can genuinely devolve power, rather than have the semblance of devolution, when in fact the centralisation of power to the Secretary of State and his or her appointees is what is going on.

Why does the Minister think that Ministers are always going to be right and everybody else is always going to be wrong? That is patently not the case. That is why we are concerned about the powers that have been taken by Ministers in the Bill. We may well return to this issue rather than test the Committee's opinion at this stage. We might want to return on Report to further discussion of the combined authority model.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

Duty to make Academy orders

Kevin Brennan: I beg to move amendment 39, in clause 7, page 6, line 5, at beginning insert—

The amendment requires the Secretary of State to take advice before using new provision.

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

Amendment 40, in clause 7, page 6, line 5, leave out "must" and insert "may"

There may be a good reason why the school should not be academised, and this amendment allows for mature reflection of the need for academisation.

Amendment 46, in clause 7, page 6, line 6, after "intervention", insert "for the first time after 1 January 2016"

The Bill does not make clear when the Government will implement this new power. This amendment would provide that the power could not be used retrospectively.

Amendment 24, in clause 7, page 6, line 8, at end insert—

'(A1A) Prior to making an Academy Order in respect of a maintained school under subsection (A1), the Secretary of State must arrange for an independent assessment of the impact of conversion into an Academy on vulnerable pupils, including but not limited to—

(a) children with statements of special educational needs,

(b) children with special educational needs without statements,

(c) looked after children,

(d) children with disabilities, and

(e) children with low prior attainment not otherwise falling under (a) to (d).

(A1B) A report of any assessment conducted under subsection (A1A) shall be laid before each House of Parliament by the Secretary of State.

(A1C) Where a report under subsection (A1B) indicates any risks of negative impacts on vulnerable pupils, the Secretary of State must accompany the report with a statement of the steps he is taking to satisfy himself that reasonable mitigating steps will be planned and implemented to reduce such risks."

Amendment 42, in clause 7, page 6, line 8, at end insert—

'(A2) For the avoidance of doubt, subsection (A1) does not apply to a maintained nursery school or a Pupil Referral Unit."

The amendment is to clarify whether the new provision applies to maintained nursery schools and Pupil Referral Units.

Amendment 45, in clause 7, page 6, line 10, at end insert—

'( ) in section 19 of the Academies Act 2010, in subsection (2), insert at start "Except subsection (A1) of section 4" and insert after subsection (3)

( ) Before the Secretary of State makes an order commencing section 4(A1) she will lay before Parliament an independent report demonstrating the improvement, or otherwise, of schools which have been academised, or not, after being eligible for intervention by virtue of sections 61 or 62 EIA 2006."

The amendment requires the Secretary of State to demonstrate that academisation is the best solution for schools which receive an inadequate Ofsted judgement.

Kevin Brennan: We now move on to clause 7, which is another clause where the Secretary of State takes considerable power, and we will consider this group of amendments. As the clause stands, the Secretary of State need take no professional advice about the appropriateness of an academy order. The decision is, in effect, taken in advance by the absolute duty that would be placed on her by the clause. The clause is unusual in that it places an absolute duty on the Secretary of State to academise under certain circumstances.

With amendment 39, we are simply urging the Secretary of State to pause and listen to the best available advice. She ought to take each case as being potentially different, and should inform herself of the circumstances. It is hard to imagine why the Secretary of State would not want to take the opportunity to listen to the best available advice, unless the concern is that the advice that she might be given would not fit well with the predetermined ideological position on what should happen.

Michael Tomlinson (Mid Dorset and North Poole) (Con): On that point of pausing, is not the problem with some of the amendments, specifically amendment 40, that schools will potentially be left in a state that is causing concern for too long? The explanatory statement with amendment 40 says that

"this amendment allows for mature reflection of the need for academisation".

Is "mature reflection" simply another phrase for "undue delay"?

Kevin Brennan: No, it is not. It is what one should be doing when considering the best way to improve the school, which is to look at the evidence. What is the

evidence that suggests that a particular approach should be taken? The problem with the clause is that it simply fetters the Minister from any other action, even if that action is one the evidence shows would be better. Mature reflection means considering all of the evidence available.

Steve McCabe (Birmingham, Selly Oak) (Lab): On a minor point, I notice that the Government have announced this morning that there is going to be a period of "mature reflection" on their plans for EVEL. Is that actually the Government deciding to waste time?

Kevin Brennan: Obviously we are now to have two versions of EVEL. I assume that the one they are going to do now is the lesser of two EVELs. I apologise for that. We shall see in due course whether that is the case.

I will come back to amendment 40 later. Returning to amendment 39, we are simply asking the Secretary of State to take the appropriate and best available advice. Her Majesty's chief inspector is an independent voice in the system—so independent that Ministers seem to have lost a little bit of faith in his willingness to do whatever they would like him to. Nevertheless, the role has independent status for a good reason.

The chief inspector will have a view on the strengths and weaknesses of the school concerned and the kind of support it needs most, and on the effectiveness of sponsors. In our view, he should not be obstructed from scrutinising sponsors much more carefully than happens now. He will also have a view on the effectiveness of particular local authorities and on schools that might be involved in providing support to another school that needs it. Why would the chief inspector not be listened to? Why is the Secretary of State so sure that she knows best in every case and that she does not need the view of the person paid to be her principal source of independent advice?

The current chief inspector, Sir Michael Wilshaw, may not always say what people want to hear. All sorts of people might not want to hear what he has to say, but that is a poor reason for not listening to him. There may be a very good reason why a school should not be academised. As the hon. Member for Mid Dorset and North Poole pointed out, amendment 40 allows for an opportunity for mature reflection. Perhaps the word "mature" is otiose because I was not going to propose any immature reflection, but amendment 40 allows for a period of reflection on the need for academisation. It is entirely possible to debate whether, in particular circumstances with particular sponsors, the academy model is the best. There are clearly cases in which it has worked, and we very much have supported that approach when it is appropriate.

Michael Tomlinson: An example of where it works would be Magna Academy, which is now a sponsored academy in Canford Heath in my constituency. Two years ago, the school was in special measures but, in the past two weeks, it has received an "outstanding" in every single category, which I am told is a first in the south-west in that framework.

Kevin Brennan: May I take the opportunity to congratulate the school on achieving that outstanding rating from Ofsted? He is quite right. There are cases where academisation has been an extremely successful model for school improvement. In other cases, other models have worked, and it is only fair that we consider some of those.

The Catholic Education Service has kindly provided some examples in which it thinks other methods have worked well. For instance, St James the Great Catholic primary school in London used an executive headteacher. The school had a section 5 inspection in June 2012 in which it was given grade 3 for three categories except for leadership and management, which was given grade 4; the school received an overall grade 4 with notice to improve.

As I understand it, in such a case under clause 7 of the Bill, the Secretary of State will have no choice but to order the academisation of that school. St James the Great used an executive headteacher despite pressure from an academy broker to join an academy chain. The chain was not acceptable to the school because it is a Catholic school and did not want a non-Catholic sponsor. The diocese brokered a package with St John's Catholic primary school in which the headteacher of St John's became the executive headteacher of both schools. A school improvement plan was implemented immediately, which included teachers from St John's going into St James the Great—we all know about that sort of approach. St James the Great was inspected a year later and as a result of that intervention it went up to an overall grade 2. That is a good example of an alternative approach to school improvement, brokered at a local level, which, effectively and astonishingly, will be banned by the clause. As the Minister wants to intervene, perhaps he can confirm that that is the case.

Mr Gibb: The point about those examples is that the bodies that oversee those schools have done so for many years, often decades. The question we are asking is: why had they not intervened until now to bring about school improvement? We have lost patience with allowing children, year after year and decade after decade, to go to underperforming schools. That is what we seek to deal with and that is why the Bill is so important.

Kevin Brennan: I think that is confirmation that the use of an executive headteacher in circumstances such as those would be banned by the clause.

Mr Gibb: The hon. Gentleman will have heard in earlier discussions on other clauses that the issuance of an academy order is step 1 of the process towards academisation. There is then a period of time when other intervention measures such as IEBs and executive headteachers can be used to try to get improvements happening before a sponsor is put in place. He is therefore wrong to say that other interventions are banned in the interim period before a funding agreement is signed.

Kevin Brennan: Indeed that is the case, which is an admission that the approach I am outlining can work and that, in effect, academisation is taking place only because of the ideological prejudices of Ministers to that approach, rather than because of evidence.

Case study No. 2 is Corpus Christi Partnership and St Joseph's Catholic primary school in Crayford. The school had a bad inspection, as academies sometimes

[Kevin Brennan]

do, which led to an overall grade 4 with special measures. The diocese provided a support programme led by the headteacher of St Catherine's Catholic secondary school in Crayford—in other words, its intervention used a partnership, with schools working together to try to bring about improvement. The school, which was inspected under section 5 a year later in June 2013, had improved in all areas and gained an overall grade 2.

That was so successful that all Catholic schools in Bexley—seven primary, two secondary and one sixth-form college—formed the Corpus Christi Partnership, a school improvement and support board in which the schools are committed to collaborative working and supporting schools where support is needed. That approach, however, will be trumped by the requirement of the Secretary of State to academise that school, despite clear evidence of the improvement brought about by that collaborative working and partnership approach.

Case study No 3: federation to try to bring about school improvement. The Regina Coeli Catholic primary school in South Croydon had a section 5 inspection in September 2013. It also had an overall grade 4 with special measures. An interim executive board was put in place—we just debated them—and again there was pressure from an academy broker and a local authority for the school to join a multi-academy trust, but the diocese did not agree that that was the best solution for the school. Again, that would be trumped by the Secretary of State's requirement in the clause to academise.

The diocese arranged for the headteacher of St James the Great Catholic primary school in Thornton Heath to become executive headteacher of both schools until a permanent arrangement was agreed to join a local federation. Key staff from the other school, including the deputy head, who was seconded, were used to support staff in the weaker school. The school joined the federation of Catholic schools in Sutton on 1 November 2014. The Regina Coeli school benefited immediately from a well-established school improvement programme already in the federation, including the leadership of the existing headteacher. There was a significant and quick improvement, and a year and a half later, the school was graded 2 in all areas.

12.30 pm

Mr Gibb: Was the diocese aware of the problems in that school before Ofsted came in to inspect, or had it taken action only since the Ofsted inspection?

Kevin Brennan: I could equally ask if sponsors of academies are aware of the problems in academy schools before Ofsted comes in and frequently finds them to be inadequate. Of course, the diocese became more aware as a result of inspection. The purpose of inspection is to find out whether a school is working and up to scratch; that is the whole point of inspections, and it applies equally to academy schools and other schools. The point is that the diocese, having been made aware of real problems in the school as a result of the inspection, was able to find a solution and bring about genuine and rapid school improvement using methods other than simple academisation.

Academisation might well be the best solution for schools in many cases. Where it is, we all ought to support it. However, I have outlined alternatives such as the use of an executive headteacher, of partnership or of federation. Where such alternatives are available, they should not be precluded from being the means of school improvement simply because the clause says that the Secretary of State must—not may, must—academise a school found to be in this Ofsted category. Many academy schools are found to be in that category. If the answer is always academisation, what is the answer when a school is already an academy?

Mr Gibb: We expect the same effective oversight of academies by multi-academy trusts as we expect of local authorities. When we believe that a multi-academy trust is not capable of overseeing the schools within its group effectively, we take action to remove the sponsors of those academies. We have done so in the case of 75 academies so far, and we will continue to take swift action where we are convinced that multi-academy trusts are not engaged in proper oversight of the academies in their group.

Kevin Brennan: I am not disputing that the Government have done that, but they are saying, "The only answer is to academise." The 75 schools that the Minister talks about have been academised, so the answer for those cannot be academisation; the answer is, "Let's try something else. Let's try an executive headteacher from another sponsor or better partnership working." The simple act of academisation does not bring about school improvement. That is why the clause is so ludicrous, frankly; it fetters the Secretary of State's freedom to act according to the evidence.

Mr Gibb: But those measures—an executive headteacher or collaboration between schools—should have been in place before Ofsted came in and awarded a "special measures" grading to the school. That is what we want to happen in local authorities and multi-academy trusts. If it is not happening under a local authority, the schools have to become academies with a strong sponsor. If it is not happening under a multi-academy trust, we will find a new sponsor for those academies. The essence of our approach is that we want strong oversight of academies and schools. If the local authority cannot do it, it will be in a multi-academy trust, and if the multi-academy trust is not doing it, we will find another multi-academy trust to run the group.

Kevin Brennan: Reductio ad absurdum is the Government's policy here. Ultimately, what improves schools is stronger leadership, better headteachers, better trained staff, more effective organisation and all those sorts of things. I have given several examples of where that has happened without following the academisation path. The Minister has helpfully given many examples of where academisation has not resulted in school improvement and where inspectors have had to come in and rate those academies "inadequate".

Putting in the Bill a requirement for the Secretary of State to academise a school is an example of not only a one-club golfer—the analogy we used earlier—but of what has happened to Rory McIlroy ahead of next week's Open golf championship. He has effectively shot

himself him in the foot by injuring himself before the tournament begins. He has hobbled himself, and he cannot carry out his job properly. That is what the Secretary of State will be doing if she has no discretion when Ofsted gives an "inadequate" rating.

Bill Esterson (Sefton Central) (Lab): I wonder whether, like me, my hon. Friend has heard the Minister more than once today use the phrase "academies and schools", which suggests that he does not regard academies as schools. Does my hon. Friend agree that if I were a parent—in fact, I am a parent—

Margot James (Stourbridge) (Con): You are eligible to run for leadership of the Labour party, then.

Bill Esterson: I am extremely concerned to hear that one of my children goes to something that the Minister of State does not regard as a school. What does that say about his attitude and the Government's education policies?

Kevin Brennan: Can I confirm that I, too, am a parent? In fact, I come from a long line of parents. I therefore think that I am particularly eligible to run for the leadership of the Labour party, as the Government Whip just suggested. You will have to hold your breath on that one, Sir Alan. I have no intention of doing so—I want to prevent any rumours from starting, following this debate. I think that the Minister made a slip of the tongue. He probably meant to say "academies and maintained schools".

For the Government to introduce a clause that states that the Secretary of State must follow one particular path of school improvement alone is, at the very least, not very sensible. Ministers seem to believe that there is only one pathway to school improvement heaven—so much so that they regularly descend to abuse anyone who disagrees with them in a manner that is not appropriate to their office. Their ideological position is to regard private sponsors as always better than a public authority —or even a Church authority, as in the example I gave. In particular, they regard private sponsors as better than local authorities, regardless of their party affiliation. They apply their contempt equally to Conservative-led and Labour-led authorities.

The amendment states that decisions should be made according to the circumstances of the particular case, which I think is an eminently sensible proposition. Ministers have all the powers that they need. Under the Academies Act 2010, they can already make an academy order for any school that has received an adverse Ofsted finding. With this clause, the Government are tying their own hands.

Even if a high-quality sponsor is not available—there will be a rapid expansion and there is a limited number of high-quality sponsors, so a number of low-quality sponsors have been given an opportunity to run the schools that our children attend—even if the local authority or diocese has a strong record of stepping in and improving schools, and even if the parents and the school propose a credible alternative approach that has proven evidence of success, Ministers will not even be able to entertain an alternative to their prescription. They are set on removing their ability to exercise discretion or make exceptions.

We know already that the Government have not been able to convert all the schools that they could have done in the past five years, and not just because of the opposition of ideologically driven local activists, who perpetrate and orchestrate campaigns for ideological reasons, otherwise known as parents. There are often delays and difficulties when the Government try to academise a school, including bureaucratic delays in the Department and other legal issues, which we will return to when we debate the later amendments. What makes the Government so sure that they will be able to manage the 1,000 more to which the Prime Minister has committed himself? In some circumstances, academisation will clearly not be the best route, but the clause will tie Ministers to it regardless of whether it will do the school any good.

I will speak briefly to the other two amendments that we have tabled. I am sure that my hon. Friend the Member for Sefton Central will speak to his amendment which is part of this group. Amendment 42 is intended to clarify whether the new provision applies to maintained schools and pupil referral units. There is some ambiguity about what is covered by the phrase "maintained school". The amendment is designed to remove that ambiguity. Perhaps the Minister will make that clear in his remarks.

The provisions on academisation in the Bill are based on Ministers' assertion that turning a school into an academy is always the best solution. That assertion has been widely questioned by a range of researchers. Neither the Government majority on the previous Select Committee nor the RSA/Pearson Commission set up on the assumption that academies were the future was able to say with conviction that there was clear evidence for the superiority of the academy model.

Amendment 45 would allow the Secretary of State to try to prove her case, so the Government should welcome it. The way to make schools improve is not just to cherry-pick a few anecdotes to illustrate the point, or to abuse statistics, at which the DFE has become infamous and expert in recent years. The independent UK Statistics Authority has had to rap Ministers' knuckles about that on more than one occasion in recent years.

The Government should commission independent research from a trustworthy source into the impact of turning schools into sponsored academies. They should listen to the evidence and make policy that is driven by the evidence rather than by uninformed ideology. I know that that is a radical suggestion for the Government, Sir Alan, but commissioning independent research and listening to the evidence would be a good way forward.

Mr Gibb: Was it uninformed ideology that led Lord Adonis in the previous Labour Government to adopt this very policy for failing schools and turn them into academies? By the time the previous Labour Government left office, there were 200 such academies. Are they all based on ill-informed ideology?

Kevin Brennan: No, it was not, Sir Alan. I supported Lord Adonis in what he was doing. He was making a targeted intervention, which was very well supported by Ministers and quality sponsors, and using it to try to turn around schools. As I have made clear, I am not opposed to that. I am opposed to the idea that only one solution can ever be attempted and that Ministers should not even be allowed to attempt another solution to bring about school improvement.

[Kevin Brennan]

We are moving to a system in which many more schools will be subject to academy orders, and Ministers will be scrabbling around looking for suitable sponsors for those schools. We already have plenty of evidence, even from the current academy programme, that low-quality academy sponsors have had schools removed from them because they have failed to do their job properly.

Steve McCabe: Is not this the Minister's problem? Lord Adonis was creating an additional model, something that we could do that was different and extra, where we felt that we had tried everything else and the school had continued to fail. The Minister is seeking to sweep all of that away and now have one single model and, when it fails, or when it cannot raise good-quality sponsors, the Minister will be in a straitjacket of his own making. Is that not the fundamental problem?

Kevin Brennan: As ever, my hon. Friend has put it far better than I could; he is absolutely right. Amendment 45 would allow the Secretary of State the opportunity to prove her case, by commissioning that independent research in order to see whether only this pathway is the right one for school improvement.

Mr Gibb: I am pretty sure that the hon. Gentleman was here when we debated clauses 2, 3, 4 and 5, which are packed full of other interventions that can be implemented to ensure that schools improve. Clause 2, for example, includes issuing warning notices, and clause 4 would make schools enter into contractual arrangements with school improvement organisations. Those are other types of interventions. We are discussing just one clause here, clause 7.

12.45 pm

Kevin Brennan: We are discussing clause 7, which says that if a schools gets a failing Ofsted report, all those other interventions ultimately cannot be used to improve that school. That is the problem with the clause. The Secretary of State already has the powers that she needs on the matter. The proposals fetter the action of the Secretary of State and future Ministers in an unhealthy way, which is why we have tabled these amendments.

Bill Esterson: Before I speak to the amendment in my name, I want to make a few comments about some of the amendments tabled by my hon. Friends. My hon. Friend the Member for Cardiff West made extremely good points about the range of options available. As evidence, he mentioned the success of federation, school-to-school support, collaboration, school improvement measures, and different types of activities over a great many years. In previous debates, I mentioned the example of success that is readily available for the Government to draw on—the London Challenge. Its various iterations around the country were never allowed to flower when the coalition came in, in 2010. The coalition Government sadly failed to look at the evidence of London Challenge's success, which my hon. Friend asked them to consider. They were dismissive of it and decided not to continue it in Knowsley and the Black Country among other places.

My hon. Friend also touched on the importance of inspection and the fact that it gives the opportunity for improvement using a range of measures. It occurred to me that we have again come to the point of debating the difference between what the Government say and what they do on devolution and localism. The Government clearly do not trust local schools, communities and people to know best about how to improve schools in their areas. If they did, they would allow more than one route for school improvement. The approach is very clear and very worrying indeed; it is not evidence-based. If it were, the Government would look at what the Select Committee found—not only our conclusions, but the evidence that we took from many people around the country about what works—rather than dogma.

The Minister mentioned, quite rightly, the success of the relatively small number of schools—several hundred—that were converted to sponsored academy status, following the work of Lord Adonis in the last Labour Government. The Select Committee has looked into that. There has been sufficient time to determine that the Labour academies were a success; that they raised standards and improved outcomes and results for children at those schools compared with schools in similar situations faced with similar difficulties. As my hon. Friend the Member for Birmingham, Selly Oak said, academies were never intended to be more than an additional tool in the box—an additional means of school improvement.

The Select Committee was advised by the charter schools in America that these sorts of approaches should only ever be used in a small number of cases at a time, because that gives an opportunity to evaluate their success or otherwise. I only wish that the Government had listened to that advice, rather than ploughing on with changing many thousands of schools in one go. As the Select Committee said, it is impossible to know whether the changes have worked or not, because so much has been changed so quickly.

Amendment 24 relates to the situation of some of the more vulnerable children in our schools—children with statements of special educational needs, children with special needs without statements, looked-after children, children with disabilities and children with low prior attainment not otherwise covered by the categories listed in the amendment.

Headteachers in my constituency and elsewhere over the years have raised concerns that not only academies but schools generally sometimes suggest to parents, "This school is not for your child." Schools do that because it is a challenge to ensure that children with additional needs receive the education that they need to progress without affecting the school's accountability measures.

The Children and Families Act 2014 has an important presumption of mainstream education for children and young people with special educational needs. However, a concern has been put to me and to the Committee in written evidence that if a school is required to become an academy under clause 7 because it requires improvement or special measures, some children might be deemed to challenge or threaten the school's ability to hit its targets when it comes to progress measures or more general results. That could lead to undesirable behaviours or, if I can put it this way, unintended consequences. I will be interested to hear the Minister's response to that concern.

The provision in the 2014 Act stating that mainstream education should be the presumed approach is definitely the right one, and we should consider carefully anything that moves away from that presumption. Amendment 24, like so many of the amendments, is an attempt to get the Minister to think carefully about the consequences of what he proposes. The last thing we need is the exclusion of disabled children, looked-after children or any children who might adversely affect a school's results.

Figures given to me suggest that children with special educational needs are four times more likely to be excluded from academies. If that is true, it is certainly a concern and would justify the amendment. I will be interested to hear the Minister's response to that figure.

The structures available in multi-academy trusts allow for alternative provision as a main option. That is not consistent with the presumption of mainstream education provision in the 2014 Act. Concerns have been expressed by the Academies Commission that alternative provision is being offered by setting up a free school, to ensure that the children I described are not included in performance data. If that is true, and if the point about the likelihood of exclusion from academies is true, amendment 24 is certainly worthy of our consideration.

I hope that the Government's intentions are as good as their word—namely, the 2014 Act's presumption of mainstream education. The points I have made about exclusion and alternative provision using the free school model, as well as the anecdotal evidence that I cited of some children being rejected from schools because of their effect on performance data, are of great concern. I look forward to the Minister's response and hope that he will understand why I tabled the amendment.

Ordered, That the debate be now adjourned.—*(Margot James.)*

12.55 pm

Adjourned till this day at Two o'clock.