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Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Wednesday, 16 December 2015.

3 pm

Prayers—read by the Lord Bishop of Chester.

Airport Capacity in London
Question

3.06 pm

Asked by ***Lord Spicer***

To ask Her Majesty's Government what estimate they have made of the last date on which the decision about where to build an additional runway for London could reasonably be made, in the light of their commitment to publish that decision this year.

The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con): My Lords, on 10 December, the Government accepted the Airports Commission's case for expansion in the south-east. We agree with the commission's shortlist of three options, all of which it concluded were viable. The Government will now conclude a package of further work by the summer and will ensure that the timetable for delivering additional capacity set out by the commission does not alter.

Lord Spicer (Con): My noble friend will be relieved to hear that I do not have a supplementary question for him. This is partly because I have run out of ideas for new ways of asking the same question but also because the Government are producing the same answers, which—I do not know how to put this tactfully—have a short shelf-life attached to them. I wish Heathrow Airport, the Government and your Lordships a very happy Christmas, and an even better new year.

Lord Ahmad of Wimbledon: It would be only right to return the seasonal greetings to my noble friend.

Lord Rosser (Lab): I also wish everybody a happy Christmas. In the House of Commons on Monday, the Secretary of State said that the Government were still assessing all three airport extra capacity options identified by the Davies commission. He said:

"I hope very much that, by the summer, we will be able to tell the House which one carries the most favour with the Government".—[*Official Report*, Commons, 14/12/15; col. 1311.]

Subsequently, he said:

"I hope to come back to the House in the summer".—[*Official Report*, Commons, 14/12/15; col. 1317.]

However, in answer to another question, the Secretary of State said that,

"there will be a decision by summer next year".—[*Official Report*, Commons, 14/12/15; col. 1313.]

Which of those statements by the Secretary of State is correct? Is it the ones that said the Government "hope" to make a decision by next summer or the one that said the Government "will" make a decision by next summer?

Lord Ahmad of Wimbledon: The world runs on hope in every respect. We will certainly come back in the summer, and being a person of the Muslim faith, I say, inshallah, I will be returning in the summer of 2016, God willing.

Lord Walton of Detchant (CB): My Lords, is the Minister aware that regional airports in the United Kingdom such as Newcastle, which is expanding and becoming much busier, are expressing serious concern about the adverse effect on their activities of the lack of capacity in the south-east? Is the Minister absolutely confident that a new runway will be built, or is this beginning to look increasingly like a figment of the Government's imagination?

Lord Ahmad of Wimbledon: The Government have made it very clear that we will expand south-east airport capacity. The noble Lord is right to point out that failing to address this will result in a loss of £30 billion to £45 billion to the wider economy. The Government are committed to expansion in the south-east: that decision was made clear on 10 December and we will be reporting back in the summer of next year on the final decision that will be taken on this issue.

Baroness Randerson (LD): My Lords, the south-east of England has one-third of the UK population and two-thirds of the flights, and expanding Heathrow would exacerbate that issue. Some 28% of the people in Europe who suffer from aircraft noise are under Heathrow flight paths. Does the Minister still believe that this is a suitable location for airport expansion? Given that successive Governments have agonised over this for generations, does the Minister believe that they are still answering the right question?

Lord Ahmad of Wimbledon: The Davies commission made clear three viable options, and the Government have also been clear that they are committed to expansion in the south-east. The noble Baroness raises environmental issues—noise and carbon. They are the very reasons that the Government are examining all three viable options against those criteria and the finalised air quality strategy.

Lord Tebbit (Con): My Lords, is my noble friend aware that I do not blame him personally in any way for this affair? But when it comes to questions of noise, is he further aware that the first occasion on which I was a crewman flying a 707 out of Heathrow was in 1960—55 years, half a century, ago? How many of the people who are there complaining about the noise now have moved in under the shadow of the 707s and the other big jets? Can he persuade his colleagues to understand that if Heathrow is not expanded to take long-haul flights as a hub airport, the business and the jobs will go not to somewhere in the north of England but to Frankfurt, Paris and Schiphol?

Lord Ahmad of Wimbledon: I would say first to my noble friend that 50 years ago, I certainly was not under the flight path, but I am one of those who, through issues of birth, are under the flight path now.

[Lord Ahmad of Wimbledon]
Nevertheless, my noble friend raises the important issue of the UK economy. Let me assure him that the Government are committed to ensuring that the right decision is taken on south-east airport expansion and that a major determinant of that is to ensure the continued competitiveness of the UK.

Lord Clinton-Davis (Lab): The Minister is fast earning a reputation for escaping entirely from responsibility. Purely for political purposes, the Government have dithered and dithered. Other airports in Europe, as has already been said, thrive while British aviation disappears. Is it not more important than anything that while the Government adopt their present stance, the country suffers?

Lord Ahmad of Wimbledon: It is for others to judge the noble Lord's first comment, but the Government take their responsibility very seriously, and that is why they are taking their time to ensure that the right decision, a considered decision, is taken on which of the three viable options should be moved forward. The Davies commission reported that new expansion needs to happen by 2030 and I assure the noble Lord and all other noble Lords that whatever decision is taken will ensure that that timetable will be met.

Employment: Job Creation

Question

3.13 pm

Asked by ***Baroness Stedman-Scott***

To ask Her Majesty's Government how many jobs have been created in the European Union compared to the United Kingdom in the past year.

The Minister of State, Department for Work and Pensions (Lord Freud) (Con): My Lords, over 2014, the UK saw the largest employment growth of any EU country. The UK continues to perform strongly, and over the past year, employment rose a further 350,000. This has gone alongside a welcome improvement in the rest of the EU, which saw an annual employment rise of 1.8 million.

Baroness Stedman-Scott (Con): I thank the Minister for his response; I think that we will all be encouraged and pleased with the increase of employment levels across Europe. Can he tell us whether the recovery in employment rates across Europe will reduce inward EU migration into the UK?

Lord Freud: I think that it is a valuable development —to see improvement in the EU—because we have seen quite a large increase recently in the employment of EU nationals in the UK. Over the past year, for instance, it was 155,000, compared with 30,000 the previous year. So we would expect to see some of the pressure reduced, whereby people are pulled in because we have the jobs, as the jobs start to grow in the rest of the EU.

Lord Pearson of Rannoch (UKIP): My Lords, is not the deeper point that the EU is in long-term economic decline? According to the IMF, the EU produced 30% of the world's GDP in 1985, which will have fallen to 15% by 2020. So would not our employment prospects be much better if we got off the Titanic and traded freely with the markets of the future?

Lord Freud: I am not sure that the noble Lord has caught up with what has been happening in the world in the last year or so, when the developing world has fallen apart.

Lord Fink (Con): My Lords, what has happened to the pernicious problem of structural unemployment during the time when overall employment has fallen?

Lord Freud: We have seen today a series of records on employment—but the most important part of those is how we are beginning to see real inroads among the people who have been excluded from the economic life of the country. The number of children in workless households and the number of workless households are the lowest on record, and the number of workless households in the social rented sector is the lowest on record. Lone parent employment is at a record high—and an important measure, economic inactivity, is now at the lowest rate since 1991.

Baroness Symons of Vernham Dean (Lab): The Minister gave us the figures in raw terms as 350,000 in the UK and 1.8 million across the EU as a whole, but can he give us the figures as a percentage of the population of working age?

Lord Freud: I shall have to write to the noble Baroness, as that is quite a detailed question.

Baroness Manzoor (LD): My Lords—

Lord Wigley (PC): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, I think that we ought to hear from the Lib Dem Benches, and then I am sure that the noble Lord, Lord Wigley, will want to go next.

Baroness Manzoor: My Lords, women contribute significantly to the UK economy, both through paid and unpaid work. Yet despite 45 years of equality legislation, there remains a gender pay gap, particularly for women working in finance and the insurance sector, as well as for women aged over 40. I welcome the commitment of companies that are going to show the gender pay gap for men and women next year, but what will be done about the root causes of gender inequality? Most women are in low-paid work and there are limited levels of progression to better-quality, higher-paid work.

Lord Freud: Some of the statistics in this area are very interesting, in that among the younger generation the pay gap has disappeared. We will wait to see

whether that goes on as that generation moves ahead. The most dramatic fact about female employment in this country is that the rate now stands at 69%, which is higher than the rate for the US for both men and women. That shows how far we have gone with female employment.

Lord Wigley: My Lords, is it not the case that the figures—understandably the Minister is boasting today about the high levels of employment—have taken place in the context of the UK being a member of the European Union? Is it not the case that, if the UK were unwise enough to leave that Union, these jobs would be put at jeopardy?

Lord Freud: My Lords, I am being bombarded with massive books of arguments about the economic effects, as are quite a lot of noble Lords, I imagine. I do not think there is time to go into the detail here.

Lord Green of Deddington (CB): My Lords, does the Minister recognise that in the past five years only 37% of additional jobs—I choose my words carefully: "additional" jobs, not "new" jobs—have gone to the UK-born, while 39% went to EU-born people? At the same time, the youth unemployment rate in the UK has been stuck at 13%, twice the rate of that in Germany. There is no statistical correlation between those figures, but clearly there are jobs available. Will the Government therefore take further measures to help our own unemployed get into those jobs?

Lord Freud: In the past five years, 57% of new jobs went to UK nationals compared with 50% under the previous Government. One of the most dramatic figures I want to boast about is what has happened to youth employment. I have quoted again and again in this House the figure about workless youngsters not in education: it is now a million below what it was in 1997. It went right up under the previous Labour Government and is now at a low of 14.2%.

Baroness Sherlock (Lab): My Lords, the employment rate for disabled people is now under 48%, leaving a disability gap of 30 percentage points. The Government have committed to halving that gap, which I welcome, but in the Committee on the welfare reform Bill this week there was support from every Bench of this House to require the Government in their new statutory reporting on employment specifically to report on progress on closing the disability employment gap. The Minister resisted that. Will he think again or, if not, will he tell the House why the Government are so resistant to that?

Lord Freud: This Government are going to produce a White Paper in the new year on how to support people who are disabled and pull them back into their rightful place at the economic heart of this country.

Schools: Special Measures

Question

3.22 pm

Asked by ***Lord Storey***

To ask Her Majesty's Government what powers local authorities have to deal with schools that are put under special measures.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, the Education and Adoption Bill, which we will be debating shortly, will require the Secretary of State to make an academy order for any inadequate maintained school, fulfilling the promise made in our manifesto. The local authority will then be under a duty to facilitate conversion. Local authorities retain intervention powers under the Education and Inspections Act 2006 in schools eligible for intervention, including inadequate schools. However, the revised *Schools Causing Concern* guidance, currently under consultation, makes it clear that it will generally be regional schools commissioners who intervene, using the powers of the Secretary of State.

Lord Storey (LD): I thank the Minister for his reply. The chairman of the Local Government Association's children and young people board, a Conservative, said that local authorities,

"must be regarded as education improvement partners and be allowed to intervene early and use their vast experience, integrity and desire to improve the system".

In the spirit of Christmas time, will the Minister agree to meet to see how we can further enhance the role of local authorities in school improvement?

Lord Nash: I would be delighted to meet to discuss that. We are committed to spreading education excellence everywhere. The *Schools Causing Concern* guidance makes it clear that local authorities should continue to act as champions of education excellence in the schools they maintain.

Baroness Massey of Darwen (Lab): If it is the Government's ambition, as David Cameron stated recently, to make,

"local authorities running schools a thing of the past",

how will local knowledge about schools and their communities be gathered and how will other local authority services be harnessed to benefit schools?

Lord Nash: The noble Baroness quite rightly refers to this Government's ambition to give every school the opportunity to become an academy. Local knowledge is prevalent on the regional schools commissioners' head teacher boards. Four members are elected by their peers, and many other boards have a balance of head teachers spread across the region. Regional schools commissioners and local authorities are co-operating well in relation to the schools in their areas.

Baroness Pinnock (LD): My Lords, many local authorities across the country have demonstrated that effective local improvement can occur through strong local authority leadership in partnership with schools. An example is the oft-cited London Challenge. All the evidence, including the latest government statistics, shows that the maintained sector can turn around inadequate and failing schools better than the academy sector. Therefore, forcing all schools to become academies is not based on the need to improve school attainment. Does the Minister agree?

Lord Nash: I entirely agree that there are local authorities that are perfectly capable of turning schools around. The sad fact is, though, that quite a few—a depressingly large number—do not appear to have been prepared to use their intervention powers. Since 2006, 42 local authorities have never installed an IEB, and 49, nearly one-third, have never issued a warning notice since 2010.

Baroness McIntosh of Hudnall (Lab): My Lords, to go back to the question from my noble friend Lady Massey, could the Minister explain why this Government are bent on giving more powers to local authorities in a number of very important areas, such as health—I use the so-called northern powerhouse as the most high-profile example—yet appear to think that the same local authorities to which they are prepared to devolve those powers are not fit to run education services?

Lord Nash: Local authorities have been judged by Ofsted as being inadequate to run education. We are talking about two totally different things. We believe that we have set up a very effective system for intervening in schools that is working well.

Lord Watson of Invergowrie (Lab): Is the Minister aware that by forcing ever more schools to convert to academies, he is in effect making a rod for his own back? If the only role remaining for local authorities is to facilitate those conversions, in the period after that all responsibility for failing schools will fall on the Government, and Ministers will be forced to come to this House and explain to noble Lords why those schools are failing and what they are going to do about it.

Lord Nash: I hope that Ministers on this side of the House will never be frightened to come to this House and explain themselves. I conceive local authorities as being responsible for place planning, basic needs, admissions, safeguarding and SEN for the foreseeable future.

Lord Glentoran (Con): My Lords, what is the intention of Her Majesty's Government in relation to ensuring that education by devolved Governments is maintained and remains at the same standard as the United Kingdom's? By that, I mean Scotland, Northern Ireland and Wales.

Lord Nash: Education has been devolved, which has had some pretty disastrous consequences in Wales. There is also a report out today on the effects of inadequate oversight in some Scottish areas.

Lord Stoddart of Swindon (Ind Lab): My Lords, is the Minister aware that throughout the 20th century local authorities led and ran education in this country very successfully, and indeed introduced many new systems and improvements to the whole education system? I speak as a former member of a county borough education committee. Would it not be better if local people ran their local services, rather than central government interfering in matters that really should not concern it?

Lord Nash: Actually, I think they do concern us. This Government are passionate about ensuring that every child gets a good education, and sadly there are far too many areas in this country where that is not the case. As I have already explained, regional schools commissioners are very locally based.

Baroness Farrington of Ribbleton (Lab): My Lords, would the Minister explain to the House whether there is any relationship between the way that the Government have decided where schools can be built, where new schools can be opened, where schools can be expanded and where they cannot, and the fact that many parents are now discovering that what used to be their local authority's responsibility for planning provision over their area has been messed up by the Government moving in because they particularly want a certain sort of school, without looking at the overall planning needs to suit every child of every group of parents?

Lord Nash: I am responsible for place planning and capital, and we look very closely at planning needs. If the noble Baroness is referring to free schools, since I became a Minister, 93% of free schools have been approved in places where there is a forecast need for new school places.

Scotland: Fiscal Framework

Question

3.29 pm

Asked by ***Lord Purvis of Tweed***

To ask Her Majesty's Government, in the light of talks on 14 December between the First Minister and the Prime Minister, when the fiscal framework agreement between the Scottish and United Kingdom governments will be finalised and published, and how it will be ratified.

The Parliamentary Under-Secretary of State, Scotland Office (Lord Dunlop) (Con): My Lords, the Prime Minister and the First Minister met on Monday 14 December to discuss a framework which is fair both to the taxpayers of Scotland and the rest of the UK. The Joint Exchequer Committee will meet again

shortly to continue discussions, with the aim of reaching final agreement in the new year. Once agreed, a framework would be signed by both Governments.

Lord Purvis of Tweed (LD): My Lords, the Government said in the summer that agreement would be reached in the autumn, and in the autumn they said it would be reached in the winter. In the communiqué from the Joint Exchequer Committee last week, reference was made to the new year, but the First Minister of Scotland said after the meeting with the Prime Minister that the target for reaching agreement would now be mid-February—long after the proposed scheduling of the Committee stage of the Scotland Bill. When will agreement be reached? Given that this is of such significance for taxpayers across the whole United Kingdom—not just for those of us who are resident taxpayers in Scotland—is it not appropriate that, before Christmas, the underlying data for these discussions be published to enable much wider debate across civic Scotland and the UK, and indeed in Parliament?

Lord Dunlop: The Government want an agreement as soon as we can achieve it. I cannot offer any guarantees as to the end date, because there are two parties to these negotiations. However, I was very encouraged by what the First Minister said on Monday after the meeting with the Prime Minister. She and the Scottish Government want to reach an agreement, and she is optimistic that a deal can be done and is very keen that we should get on with it. That is absolutely what the UK Government want as well. Clearly, the fiscal framework will be a very detailed public document when it is agreed, and obviously, it will be made available to this House. We welcome full scrutiny of that agreement.

Lord Forsyth of Drumlean (Con): My Lords, has it occurred to the Government that a sturgeon might be playing them like a salmon?

Lord Dunlop: I know that my noble friend is suspicious of the Scottish Government's motives. We are entering and taking part in these negotiations in good faith. The discussions we have had so far have been constructive, and we are confident that a deal can be reached.

Lord Gordon of Strathblane (Lab): Does the Minister agree that it is nothing short of ludicrous that the Bill should have passed all its stages in the House of Commons before the full fiscal framework has been spelled out in detail? Will he give an assurance that it will not pass all its stages in the House of Lords before we know all the details of the full fiscal framework?

Lord Dunlop: As I have said, we want to reach an agreement as soon as we can. I cannot give guarantees as to the end point—we have debated these matters fully at Second Reading—but I can assure the House that once an agreement has been reached, there will be an opportunity for it and the other place to give full scrutiny to that agreement.

Lord Lexden (Con): What are the main factors that are delaying the conclusion of the agreement?

Lord Dunlop: This is a very important agreement and all sides are agreed that this is a critical part of the overall settlement. It is important to get this agreement right. We want an agreement that is fair to Scotland and to the UK as a whole, and which is built to last. The important thing is to get the agreement right.

Lord Reid of Cardowan (Lab): As my noble friend Lord Gordon pointed out, the fiscal framework underpins every important implication of the decisions that this House and the other House have been asked to take. If it is wrong, it will have the most serious consequences not just over a period of time but over decades. I am afraid that the Government are approaching this with all the alacrity of their deciding on additional airport capacity. However, the difference is that this House has been asked to consider this before we know the fiscal framework on which it will all be based. Can he not at least assure us that there will be no concluding stages of this legislation until the fiscal framework is available to Members of both Houses of Parliament?

Lord Dunlop: We have reordered the Bill so that the parts most relevant to the fiscal framework will be dealt with at the end of Committee. As I said at Second Reading, that gives us the time and space to reach agreement, so that this House can give the agreement full scrutiny.

Lord Howell of Guildford (Con): Can my noble friend explain what the effect will be on the fiscal framework of the continuing slide in the price of crude oil and the likelihood that it will go down considerably further?

Lord Dunlop: Clearly, the reduction in the price of oil shows how wise the Scottish people were in their vote last September, and it underlines the key importance of pooling and sharing risks and resources across the United Kingdom. We really are stronger together.

Lord McAvoy (Lab): My Lords—

Lord Stephen (LD): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): In such circumstances, we have to go with what the House is indicating, which is that it wants to hear from the Lib Dem Front Bench.

Noble Lords: Oh!

Lord Stephen: My Lords, does the Minister not have a very significant problem—

Lord Stoddart of Swindon (Ind Lab): My Lords—

Baroness Stowell of Beeston: The House has decided that time is up.

Procedure Committee

Motion to Agree

3.36 pm

Moved by ***The Chairman of Committees***

That the 1st Report from the Select Committee (Changes to the leave of absence scheme; Ballot for oral question slots during recesses; Status of interpreted or translated evidence to select committees) (HL Paper 62) be agreed to.

The Chairman of Committees (Lord Laming) (Non-Afl): My Lords, in moving that the first report from the Procedure Committee be agreed to, I will also speak briefly to the amendment to the Standing Orders. The report covers three areas.

First, noble Lords will have noticed that the report proposes changes to the leave of absence scheme. These changes were put forward by the Sub-Committee on Leave of Absence and were subsequently endorsed by the Procedure Committee. Under the proposed changes, a Member applying for leave of absence would be required to state that they reasonably expected to take a regular active part in the House again in the future. If they could not state this, the House could refuse to grant leave of absence. In addition, new guidance in the *Companion* would encourage Members who could not commit to returning as an active Member in the future to agree to retire.

Secondly, and clearly on an entirely different matter, the report proposes piloting a ballot for Oral Question slots that become available during recesses. The pilot would run from the first day of the forthcoming Christmas Recess until the House returned from the Easter Recess in 2016. Details of how the ballot would work are set out in paragraph 5 of the report and reflect the existing ballots for Questions and debates. If the report is agreed, the Table Office is now ready to provide information to Members on how the ballot will work over the forthcoming Christmas Recess.

Thirdly—again, on a different matter—the report sets out, for information, the committee's confirmation that the wording in the *Companion* authorises committees to take oral evidence in another language or in British Sign Language through interpretation and to accept written evidence originating in another language or in British Sign Language if accompanied by a translation into English. This clarification was prompted by the Equality Act 2010 and Disability Committee, which recently took oral evidence in British Sign Language. I beg to move.

Lord Christopher (Lab): My Lords, I am concerned about the first issue on which the noble Lord has reported. I am a great believer in trying to look at the unintended consequences that can often arise from any sort of rule change. Certainly, we do not have a terribly good history on this side of the House when we think of the consequences of a simple change in our arrangements that was made about a year ago. It seems to me that we are required—I do not declare any interest; I have never thought about taking a leave of absence and am not currently doing so—to ensure that what we do and what we say is on our honour. I can well foresee a situation in which someone might say—although I have no idea what questions they would be asked—that it is their intention to return, but then circumstances make that impossible, either immediately or for a further period. I want some assurance that this is not going to create difficulties which certainly do not happen today. It is not at all clear to me why this change is necessary at all.

The Chairman of Committees: It is necessary because the House is trying to encourage people who have no intention of playing a part to take the necessary action. Should they intend genuinely and sincerely to again play an active part, that would of course be accepted. Should the circumstances change, this House will exercise discretion.

Lord Geddes (Con): On the third point, about translations, can the Chairman of Committees explain to what extent that translation must be authorised and, if so, by whom?

The Chairman of Committees: My Lords, clearly it is for the committee to decide how to conduct its business. It would be for the committee to ensure that the arrangements are satisfactory not just for the committee members but for members of the public who are in the room and for the webcast. Therefore, the arrangements have to satisfy all the different aspects involved in taking evidence in committee.

Lord Hughes of Woodside (Lab): My Lords, how will the committee decide whether a Member's intention to take a leave of absence is genuine or not? Is someone going to decide whether the explanation given is acceptable?

The Chairman of Committees: My Lords, this is a self-regulating House, as we all know. We all of us act on our honour. If someone is willing to state that that is their intention, that will be accepted.

Lord Campbell-Savours (Lab): My Lords, I understood that the House was trying to help people retire and perhaps secure increased retirements. Is there a danger under the proposal that is being put before the House that people might undertake this arrangement and not the retirement proposal? That runs contrary to the objective of the whole exercise.

The Chairman of Committees: My Lords, these matters were very carefully considered by the committee. At the end of the day, the House has to expect Members to act on their honour.

Baroness O'Cathain (Con): My Lords, may I revert to the issue of putting down Oral Questions? How would this affect the Topical Question?

The Chairman of Committees: My Lords, I should emphasise that this arrangement is only for only the period of recess. Therefore, the Questions that are

available during a period of recess will be handled in exactly the way that we deal with Topical Questions and Thursday ballot debates—we have experience of handling ballots of this kind. However, I emphasise that it is only a pilot during this period of recess.

Lord Stoddart of Swindon (Ind Lab): My Lords, the question of a leave of absence, which has been raised by a number of noble Lords, is important. I would like to know whether the committee, when it discussed this, had any representation from noble Lords.

The Chairman of Committees: My Lords, the committee acts on behalf of the House. We have taken soundings and received a very detailed paper on the subject. We have come to these conclusions and now report them to the House. It is for the House to agree this matter.

Motion agreed.

Standing Orders (Public Business)

Motion to Agree

3.44 pm

Moved by ***The Chairman of Committees***

That the standing orders relating to public business be amended as follows:

Standing Order 22 (Leave of absence)

In Standing Order 22(1), in line 2, after "so" insert "for reasons of temporary circumstance"; and in line 3 leave out from "pleasure" to end.

In Standing Order 22, after paragraph (2) insert-

"(2A) When applying for leave of absence a Lord should state in his written application that he has a reasonable expectation that he will be in a position again to take part in the proceedings of the House.

(2B) The provisions of paragraph (2A) do not apply to the Earl Marshal and the Lord Great Chamberlain."

In Standing Order 22(3), in line 4, after "to" insert "resign under the House of Lords Reform Act 2014 or, if he expects to attend again in the future,".

In Standing Order 22, leave out paragraph (4).

Motion agreed.

Education and Adoption Bill

Report (2nd Day)

3.45 pm

Clause 1: Coasting schools

Amendment 8A

Moved by ***Lord Addington***

8A: Clause 1, page 1, line 9, after "school" insert "or an Academy"

Lord Addington (LD): My Lords, the fairly large group that we start with today covers a variety of different matters. The amendments in my name fall into three groups. I shall continue to explain this when the noise level is slightly lower. I do not know what the parliamentary equivalent of "Rhubarb, rhubarb" is, but hope that we can take that as read for a few moments.

Baroness Pinnock (LD): I hope that that is reported in *Hansard.*

Lord Addington: Yes, I hope that it will be reported in *Hansard*.

Amendments 8A, 8C, 8D, 9, 9A and 10A concern the new definition of a school in trouble—that it is "coasting". If coasting is a bad thing, I suggest that all types of school should have it available to them. I also note that the Minister has tabled amendments in this group, so I will resist any further comment until after I have heard what he has to say, as I believe that he has made certain steps towards us.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): Before the noble Lord moves on to his other amendments, I would like to elaborate on the point that he just referred to. As he said, I have tabled an amendment on it, and I take this opportunity to assure him that we take academies' performance very seriously. We fully intend to hold academies to account in the same way as we do maintained schools. My Amendment 24 will ensure that the "coasting" definition always applies to academies and that we will always have power to take action when academies fail or coast. I will talk about that in more detail, but I hope that the noble Lord is reassured that we have addressed the concerns about tackling underperforming academies raised by him and a number of other noble Lords, and will not press his amendments in relation to that.

Lord Addington: I thank the Minister. I was going to thank him in my summing-up speech, but I do it now.

There are two clarification amendments in this group. Amendment 9 relates to the definition of a coasting school as having three consecutive years of failure. That has been suggested and referred to in regulation, but the amendment seeks to have that included in the Bill, or at least get confirmation that that is what must happen before this type of intervention takes place. Further reassurance would help on that.

Amendment 15A states that certain types of schools will never be affected by the definition of coasting. Once again, this is seeking clarification and reassurance. My attention is drawn particularly to special schools in this regard. The integration of special schools into the education system as a support structure is very important. Some local base will always be important. Who knows what will happen in the future, but under the current structure, it would be appropriate to spell that out more clearly.

The more substantive amendment as far as I am concerned is Amendment 15. When drawing up the definition of a coasting school, a school that is in the throes of failing or at least stagnating, what does one look at? It is quite clear that academic results will be a factor and I have included that in a small list. Lists are

[LORD ADDINGTON]
of course imperfect, but they are a starting point for discussions. But other school activities are also important and I offer three further examples. One would be arts and sports. If there is exceptional activity in that area, but the academic side is not great, are you in danger of throwing the baby out with the bathwater? If schools are doing something that is good, do we endanger it with a change of school status, organisation and ethos? Any time we do that we will presumably throw everything into the melting pot and changes will have to be made to address something. By changing that structure we may get rid of something good.

The same argument could be made about placement in further education and/or school activity after that. If we have established a good pathway, are we in danger, if we change that, of damaging this process? I still regard apprenticeships as something of a work in progress, but they are lauded by all. If a particular school is doing very well at getting people into apprenticeships, surely that deserves to have some special attention paid to it.

I do not think this is a particularly radical thought, but I have not heard conclusively what we will do if we get these very great gains and positives; will we throw them away? I remind all noble Lords that we have heard much about how schools should not just be chasing grades. If the target is getting definite C grades at GCSE, which is one that is often referred to, just chasing B grades at GCSE is not that much better. It is for the person getting the grades, but outside that, are we actually getting rid of something else?

I beg to move Amendment 8A and I look forward to all the Minister's replies on this group.

The Deputy Speaker (Lord Brougham and Vaux) (Con): I advise the House that, if Amendment 8B is agreed to, I cannot call Amendments 8C to 9A inclusive, due to pre-emption.

Lord Hunt of Kings Heath (Lab): My Lords, I shall speak to my Amendments 10, 11, 12 and 13 in this group, where we are essentially concerned with coasting and its definition. As we said in Grand Committee, we are particularly concerned to see that the definition of coasting is subject to appropriate parliamentary scrutiny and that parents are both kept fully informed and involved in what is happening if their school is defined as coasting. My amendments make it clear that regulations must be laid in order to define coasting and that the affirmative procedure must always be used.

I am, of course, grateful to the Minister for government Amendment 15B, which goes some way towards this by ensuring that the first use of regulations will be subject to the affirmative procedure. When the regulations are laid we will be looking particularly for assurances that all schools will be covered by the definition of coasting, including those which admit a large number of high-ability pupils.

We also discussed the issue of consultation with parents in Grand Committee. The Minister's noble friend Lady Evans said that,

"once a school has been notified that it is coasting, we should trust the governing body to engage parents as they see fit".—[*Official Report*, 5/11/15; col. GC 415.]

However, in the light of discussions, she then said that she would see whether the *Schools Causing Concern* guidance would be sufficiently strong to ensure that parents were aware that their child's school had been identified as coasting.

I am grateful for government Amendment 20, but I have a couple of questions for the Minister. I ask him to accept that the wording of government Amendment 20 is around a duty to communicate information about plans to improve a school, not about consulting parents or taking account of what they say. Will the Minister explain why the Government have decided that the duty should be about only communicating information, rather than an actual consultation with parents? Can he also confirm that Amendment 20 applies only to maintained schools which are going to be converted into academies? As I read it, it applies only to forced academisation under Clause 7 and not to those institutions which receive a coasting notice or warning notice where it does not automatically follow that academisation would take place. Is there not a defect in the amendment since it does not cover all schools? He made it clear in Grand Committee that some schools identified as coasting then might well be issued with a warning notice, but enforced academisation might not follow because presumably they were improving in the light of receiving it. I still think that there is an issue in this around parents being consulted at that stage.

Will the Minister also explain the term "registered parent"? I am not an expert in education law, but reference is usually made to registered pupils and relevant associated adults as having parental responsibility, so what does "registered parent" mean? I had not realised that as parents we are registered parents, which I think has a sort of Orwellian ring about it.

We then come to Amendment 24, to which the noble Lord will refer, but perhaps I may put some questions to him about it because it is relevant to my own amendments. Again, I am grateful that we will now have in the Bill the fact that the academy agreements will ensure, as I understand it, that academies which are the cause of concern will be treated in the same way as maintained schools when it comes to issues around coasting. Overall, the amendment is very welcome, but I have three points that I should like to raise with the Minister.

First, my reading of the amendment is that it applies only to academy schools and alternative provision academies, but not to 16-to-19 academies, which I understand are not defined as schools and are not in the further education sector but are the bodies which sixth-form colleges have been invited to join in order to get VAT rebates. It is very welcome that an avenue has now been found for sixth-form colleges to get these rebates, so there is a question of why, on the face of it, 16-to-19 academies have been left out of this definition. Can the Minister also confirm that proposed new Section 2D will be used retrospectively to override private contracts between the Secretary of State and academy trusts for all contracts?

I want to raise again the issue of early academy agreements, because in a sense we have academies and we have agreements, and now we are to have legislation that applies to those agreements. My understanding is that on the relationship between early academy agreements and the role of articles of association, originally the articles had to be approved by the Secretary of State and formed annexe 1 of the funding agreement. I understand that the articles of association no longer have to be approved. The earliest ones enabled the Secretary of State to parachute directors on to the boards of academy trusts where the existing directors were not taking seriously a warning notice. Does this provision apply to the articles of association as well as the funding agreement in those cases?

Finally, I note that the last line of Amendment 24 refers to the Education and Adoption Act, as it will be, coming into force in 2015. With the best will in the world, the Bill will not receive Royal Assent by the end of this year.

I am grateful for the two amendments which have been brought forward by the Minister, but they are technically complex. He may well not be able to answer all my detailed questions today, so would he be prepared to let us come back to this at Third Reading so that we can have another debate on these issues? I would be grateful for that.

4 pm

Lord True (Con): My Lords, I am a little puzzled by the groupings. I thought that we were discussing government Amendment 20 and the whole business of so-called consultation and what that entailed in a later group. I will not trespass on remarks I may make to your Lordships at that stage. However, remembering grant-maintained schools and what went on in that so-called consultation—the intimidation and other things that happened to parents and others who wanted to set up independent schools—we should look a little askance at pleas for too much elaboration in the process. Perhaps we can discuss that at the appropriate time.

I apologise to your Lordships that I was unable to be present in Grand Committee and I repeat my declaration of interest at Second Reading: that I am the leader of a London borough. I spoke on the difference between academies and maintained schools, and put in a plea to my noble friend that he consider addressing what we all know—I certainly know it from my local experience—which is that some academies are coasting. That is a minority of academies and I do not subscribe for a moment to the doctrinaire opposition to them, but there is no doubt that there is some need for intervention. In my neck of the woods, we are getting to the very limits of tolerance with the dithering of some academy leaderships in addressing failings in their schools.

Therefore, I give an unqualified welcome to Amendment 24 in the name of my noble friend. It is extremely welcome, needed and right. On the questions posed by noble Lord, Lord Hunt of Kings Heath, it is clearly beyond doubt that proposed new Section 2D, in Amendment 24, would apply to all past academy agreements. The ones causing most concern in my area are academy agreements reached under a previous Government. I do not mean the coalition Government but a Government of another colour.

My noble friend has listened with his customary wisdom and intelligence to your Lordships' House. He has been prepared to take and to hear criticism, and good advice, from all sides of the House. He has put forward very constructive proposals. I hope very much that your Lordships' House will not be churlish and pick at rather minor drafting points. We all know that this is an early stage in the legislation process. It is still 2015, and the Bill will be tidied up before it becomes law. I hope the House will give a very fair wind to the generous way my noble friend has listened to the House, and to the amendments he has put forward, and will support government Amendment 24.

Baroness Hughes of Stretford (Lab): My Lords, I welcome the opportunity to respond to the amendments in this group after our deliberations in Committee. Before doing so, I apologise to the House: I very much wanted to take a full part in this debate, having raised many of these issues in Committee, but I have a personal appointment first thing in the morning in Manchester which I must keep. I am afraid that I have had to book a train to get me home tonight and, depending on how long Report stage takes, I may not be here for the end of the debate. I apologise for that.

I welcome the two government amendments in this group. Under Amendment 15B, the regulations on defining coasting will on the first occasion they are presented be subject to the affirmative resolution. That is a very welcome change on the Government's part. I thank the Minister for taking the time to alert me to his proposals before today, and that was one of them.

I also welcome government Amendment 24, which, as the noble Lord, Lord True, said, enables—as we argued strongly for in Committee—parity of treatment between academies and maintained schools where they are defined as coasting, in need of improvement or in special measures. This is very important, particularly given the Government's aspiration for all schools eventually to be academies. It is very important that we are clear about the process that will pertain when an academy is coasting or in need of significant improvement. Will the Minister therefore elaborate on the detail and explain how this will work in practice?

The Minister has rightly stressed throughout these debates the importance of acting quickly when a school is coasting or in need of significant improvement. As he has said on many occasions, a day longer in such a school is too long for any child. I agree. Will he say something about the timescale that he envisages will apply if and when these provisions are used in relation to an academy? The amendment refers to the warning notice. Proposed new Section 2B(4) states:

> "The Academy agreement must provide … the power to terminate the agreement … if the proprietor has failed to comply with a … warning notice … on time".

What does that mean? What timescale are we talking about for implementation?

The amendments take us to the end point of giving the Secretary of State a power to terminate an academy

[Baroness Hughes of Stretford]
agreement. I presume that that means that a school would not go back to being a maintained school and that it would close or become a new academy with some other sponsor. Is this correct? Will the Minister elaborate on what will happen to the school and the children if the original agreement is terminated? Again, stressing the need for children's education to be protected, how long does he envisage it will be before alternative arrangements are in place?

Proposed new Section 2B(5) enables the Secretary of State, by regulation, to specify academies that will not be included in these provisions. What does the Minister envisage here? Does that mean that general regulations will be introduced that elaborate on the procedure by which these measures will be implemented? If so, by what means will this House approve them?

The Earl of Listowel (CB): My Lords, I will speak to my Amendment 14 in this group, which aims to ease the return of children who are absent from school for reasons such as leukaemia, spinal injury and mental health issues by making it easier for schools to take them back. Before I do so, I join in the thanks from all sides of the House to the Minister for listening to the concerns raised in Committee, and in particular for tabling his Amendment 24. I am most grateful to him, and to my noble friend Lord Sutherland for attaching his name to my amendment.

My amendment would take data on the academic attainment of pupils absent for more than 15 days in any school year for medical reasons out of the assessment for coasting schools. The noble Baroness, Lady Massey, whom I see is in her place, organised a meeting to discuss these issues a short while ago. We heard concerns that such young people are not always welcomed back with open arms by their schools. There may be a disincentive to support pupils who have had a significant time away due to illness. Head teachers may feel less confident about such pupils achieving their predicted grades. We heard from a young woman with a spinal injury who returned to her private school, which is very academically based. She certainly felt that she was not welcomed back.

In the statutory guidance supporting pupils at school with medical conditions, there is an expectation that local authorities should make other arrangements for the education of pupils who are,

"away from schools for 15 days or more because of health needs (whether consecutive or cumulative across the school year)".

Fifteen days' absence over a school year would be a suitable criterion for excluding those pupils' results from schools' reported data.

My hope is that this amendment would encourage the re-integration of pupils and ensure that schools' results more accurately reflect the quality of their teaching. I am grateful to Dr John Ivens, head teacher at the Bethlem and Maudsley Hospital School, for suggesting this amendment. I would be most grateful if the Minister considered making such a change to the recording of coasting schools' data, and if he considered applying such a measure to the whole school population, thereby easing the re-integration into school of all children absent for medical reasons. I look forward to hearing the Minister's response.

Baroness Massey of Darwen (Lab): My Lords, I thank the Minister for the correspondence which he so generously sent to all noble Lords participating in discussion on the Bill. I have sympathy with all the amendments in this group. Certainly, coasting—whatever that may mean—should apply to all schools. I look forward to the Minister's response to Amendment 24. There is a danger of general confusion over the concepts of a failing school, a school causing concern and coasting schools. Any school can, of course, be in one or all of these categories. But that aside, I agree that regulations defining coasting must be approved by both Houses of Parliament.

We have not yet teased out a definition of coasting. The noble Lord, Lord Addington, suggested additions to this definition and we talked about it in Committee. I realise that a consultation on the term "coasting" is taking place. I am not looking for a list of things that should be included in coasting, but issues such as those raised by the noble Earl, Lord Listowel, should be taken account of, and I hope that they will be.

Perhaps I may again ask the Minister about the consultation. Who is being consulted? Does it include parents and pupils? When will the final definition of "coasting" appear in regulations? I hope it will be in the near future. Supposing one or both Houses of Parliament rejects the definition? Under what powers will we debate this?

Lord Northbourne (CB): My Lords, I support Amendment 15 in the name of the noble Lord, Lord Addington. The Government's definition of "coasting", which I have studied very carefully, seems to focus almost entirely on academic achievement, or failure to achieve academically. Is academic achievement the only thing we are looking for from our schools? I think not. Some schools have a very large number of children who do not have much potential for academic achievement. Having been a governor of two such schools, I am very conscious of the important work that those schools can do in supporting those children and preparing them for the challenges of adult life—not least the challenge of being a parent, which so often is their lot.

Baroness Howarth of Breckland (CB): My Lords, I shall speak briefly to these amendments. Like everyone else, I welcome government Amendments 15B and 24. However, I have some questions for the Minister, particularly about consultation. Many noble Lords have asked who is likely to be consulted about coasting or closure. I know that the Minister has in the past said that this will be done through the governors' bodies and that it is the responsibility of the schools to ensure that this happens. I have discussed this at some length with my local school, which is very grateful for that flexibility as it wishes to take control of the consultation and do it in its own way with its own parents. So I hope that any regulations are not so tight that they are not flexible enough to allow for local interpretation.

If we have consultations, as the noble Baroness, Lady Massey, mentioned—she referred to pupils—I would like reassurance from the Minister that children

are paramount and will be at the centre of any discussions. Most parents have the best interests of their children at heart and will want to discuss their children's education and the way their school is to be organised with those concerned in a positive way. But there are situations, which we have all come across, where parents put their own interests first and, somehow, we have to make sure that pupils have some sort of say in the consultation and that they are put first in whatever decisions are made.

I thank the Minister for hearing many of the representations we have made. I am interested in particular in the regulations because, as I said in Committee, it is crucial that we develop young people who are rounded and who are going to develop into leaders. That means that they should think not only about academic subjects such as maths and literature but also about the arts, sport and learning in general.

4.15 pm

Lord Sutherland of Houndwood (CB): My Lords, I am very happy to have my name on the amendment headed by the noble Earl, Lord Listowel. I support this because I think it is the right item to emphasise in such a process. I am not sure I would want to see legislative details on this in the Bill, but I would hope to see something in regulations that would take account of the force of this amendment.

If I may step back for a moment to look at the broad clutch of amendments that we are dealing with now, the Bill is, I think, about two things, on which most of these amendments have an important bearing. The Bill is, first, about meeting the needs of individual children. I am grateful to the noble Baroness on the opposition Benches for re-emphasising the point that, for any pupil, one day too long in such a school is unacceptable. That should be the driving force on which we base our decisions on these amendments and the future of the Bill.

The Bill's second main aim is to define the role of academies in dealing with this problem. A whole series of subsidiary questions come out of that, one of which is the definition of coasting. I am not quite as sceptical as some about this; after all, this has been brought to our notice by the Chief Inspector of Schools, who has identified a range of schools as coasting. He must have a working definition and he has not been faulted so far, as far as I can see, on the identification of such schools—we have a basis, we are not starting from scratch. I appreciate the way in which the definition will be dealt with in regulations that are subject to affirmative resolution. I, with others, thank the Minister for this being part of the process.

There are therefore two issues: the needs of the individual child and how far the academy system—which is the system we have—will meet those needs most efficiently. I do not think there is an absolute answer to the second question and that is why many of us have raised questions about some academies—some—that are in difficulty and have to be dealt with. I appreciate the government amendment, which allows parity of treatment through the whole school system and which is absolutely the right direction to take. It shows that the process of discussing this Bill in Committee had a real point and a real outcome. The whole point is that the needs of the individual child should be met.

One question is how far the processes that the Bill will put in place will contribute to or diminish this. I understand the need for and talk of the importance of consultation, but there is one real issue: I remind my fellow Peers that the process involves three years of assembling statistics. The message that there is a question of coasting will not be unannounced or sudden. One wonders what the governing bodies will have been doing, many of which contain—I stress this—elected parent representatives, whose job it is to represent the views of parents in a school that has apparently been coasting for at least three years, according to these regulations.

Is this the right direction to go? That is the broad question: whether or not we are with the whole academy movement, or whether we have evidential or ideological reasons for opposing it. We should set ideological reasons aside, as they are not relevant to the needs of the individual child, but what kind of evidential reasons could we have? Let us look at the comparisons. Quality and standards in English schools have risen dramatically while this process has been in place. Look at schools in London, which we are in the midst of. The schools I had some dealings with, including primary schools in some of its most difficult areas, were in a terrible state a number of years ago but that has changed. There will be some of which that is not true; that is why we focus on those that require change and those that are currently coasting. But the evidence across England, not least here in London, is that the quality of what is going on has improved for children and their needs are being met in a much better way.

Sadly, this is not the case in my own native country, Scotland. A report that was across the Scottish broadsheets this morning tells of a different story in Scotland. To the credit of the Scottish Government, the report was in part commissioned by them from the OECD. That different story is that attainment by school pupils has at best been coasting or has stagnated, but in a number of areas, particularly mathematics, it has slipped back. Look at how the statistics on improvement in social mobility compare between the two countries. It is much higher in England than in Scotland, where, despite students not paying fees, the proportion of people from difficult backgrounds being admitted to universities is slipping, not advancing as it is here.

There is evidence that something good is happening here. I see a significant part of that—if not the only part—as the stimulus and energising that the whole academy movement, started by the Labour Government and continued more forcibly by this Government, takes in the right direction. Whether it is the right direction is the kind of decision that we are making now. We are saying that we will either continue with this direction or find ways of trying to stymie it or slow it down. That will not do for the needs of the individual children.

I am so embarrassed about Scotland. I have spoken in this House before—I do not want to do so again now—about how much I owed immediately after the war to Woodside primary school, in the north end of

[LORD SUTHERLAND OF HOUNDWOOD]
Aberdeen. My goodness, what I owe to that place! It was the kind of school that never coasted but it certainly improved social mobility dramatically. That improvement is absent in Scotland; it is not absent here now in the way that it was, so things are moving in the right direction.

The issue then is: are we going to support this? I am very keen to see the regulations that will define coasting but, as I say, we are not starting from a null base. Ofsted has a working definition and it has not been faulted so far. We all know the look of a coasting organisation; think of the many organisations that your Lordships represent. We have seen coasting and stagnating organisations, and those that are advancing.

I very much welcome the government amendments here and suggest that the criterion we use should be whether this will help individual pupils tomorrow or the day after to improve their position. My worry about processes being extended, by whatever means, is that it will slow that down. I made the point at Second Reading that, as it is, it takes three years of statistics, a year to set the thing in place and a year to analyse them—which means five years of delay. Again, this is not good enough, so I suggest that we advance the Bill and the main clauses in it.

However, I have to say to the Government that we will be watching. We do not believe that this is a Rolls-Royce version that will be for ever good and perfect. As such, it will be subject to constant comments in this House and elsewhere; we will be watching. But the direction is right and I therefore support the government amendments and advancing the Bill to the next stage.

Lord Mackay of Clashfern (Con): Having read over the amendments, I wonder about one small technical point in Amendment 24. Proposed new Section 2B says:

"An Academy agreement in respect of an Academy school … must include provision allowing the Secretary of State to terminate the agreement if … the Academy is coasting".

Proposed new subsection (6) says the definition of coasting will be put forward in regulations, and I am just wondering about the date at which that applies. As I understand it, there is provision in the definition of coasting, and in the system to be used for setting it up, which allows the definition to be changed. If that is so, will it have an effect on the agreements retrospectively? How will it work? This is a very technical kind of point but quite an important one, because it is an essential of the agreement to have this definition of coasting in it.

Lord O'Shaughnessy (Con): My Lords, I am grateful for the opportunity to speak to this group of amendments. I apologise that I was not present and did not speak at Second Reading, but I had not yet been introduced to the House.

I warmly welcome the amendments that have been put forward by the Government. The fact that they have come forward in response to amendments from all over the House demonstrates what I believe to be a great truth of education reform, which is its bipartisan nature. It has been put forward by many Governments over many years, and accelerated by this one. We see that in action today.

In 2012, I wrote a paper for Policy Exchange which called for a level playing field and a single regulatory regime, and for coasting schools to be intervened on, so I am especially delighted to see that the Government have put forward the extension of this regime to academies. It is incredibly important for the reputation of academies that this is the case. I declare my interest as the managing director of an academy trust which will now be within the clutches of this—so my noble friend is making my life more difficult for me, which I am very grateful for. The idea in Amendment 24 of this detailed process for intervening in academies is incredibly important. It is important for academies to know that they are within the single regime and that the expectations that apply to all other schools also apply to them. I know the retrospective nature is uncomfortable for many but it is incredibly important.

The noble Baroness, Lady Hughes of Stretford, asked in particular about what happens when an academy is intervened on. There have been plenty of examples already of academies that have had to be—in the horrible terminology—rebrokered, because they have not performed. Although they are a rare exception, there are instances already of this happening, so we are not entering into new territory here with coasting schools. It must be right that, as time goes on, we raise the bar of what we expect in terms of performance in all our schools—maintained, academy or other—so I welcome that. There are around 300 inadequate schools at the moment and there may be around 1,000 coasting schools, so we are continuing to raise the bar for all school providers, which must be the correct thing to do.

I will talk very briefly about Amendment 15, in the name of the noble Lord, Lord Addington, about whether to include non-academic measures into the definition of coasting. Some other noble Lords mentioned this as well. The schools that I run have a very big focus on character education, so I absolutely believe that there is more to education than passing exams, but you get into some very difficult territory if you want to exclude schools that perhaps have good extra-curricular activity but poor standards. There is a problem of measurement. Any definition which is going to be workable and not challengeable has to be based on objective data. It is very difficult to get objective measurements of the quality of schools other than their academic standards.

I also happen to think that, in the end, schools are responsible for providing a great education. If they can do the other bits, fantastic, but if they are not providing a good academic education, they should be intervened in. What is more, any sensible or wise sponsor would want, as they always do, to keep what is excellent and change what is not good. Although I understand the impulse behind the amendment, in practice it is not workable. In any case, first and foremost, the department and anyone else who is intervening in a school should be worried about standards. I very much welcome my noble friend's amendments and commend him on his determination and on listening to opinion from across the House.

4.30 pm

Lord Storey (LD): I shall speak to Amendment 15. I preface my remarks by saying that I agree with the noble Lord, Lord Sutherland, that it should not all be about processes. There are thousands upon thousands of teachers out there working their socks off to provide for our future generations, many of them in very difficult circumstances.

I would not want us to leave this discussion just talking about the successes of academies. We have many successful maintained schools. The noble Lord, Lord Sutherland, put it all one way. Although he complained about education in his native country of Scotland, he did not give a fair reflection of what is happening in England. As we know, more than 80% of council maintained schools are currently rated as good or outstanding by Ofsted. Councils perform above the national average in terms of progress made by pupils by three times compared with the largest academy chains.

When the Minister replies, will he put his mind to three issues about coasting? The first was rightly raised by the noble and learned Lord, Lord Mackay. The Bill gives power to future Secretaries of State to decide what may or may not constitute coasting. What will be the process for that? What consultation will be taken on that? We must be clear what is being said.

Secondly, it is not just about particular progress measures but the intake—the cohort—in a particular year. We must consider the number of children in a particular year or particular school for whom English is a second language; we must consider disadvantage. All those issues have a huge impact on the results that the school obtains. It might appear at first glance that it is coasting in terms of the strict definition as laid out in the Bill, but what is being achieved may paint a very different picture. The noble Lord, Lord Addington, is right: other issues in a school are hugely important for not just academic progress but the well-being of our society.

Lord Hunt of Kings Heath: My Lords, first, I must apologise to the Minister: I referred to Amendment 20, as the noble Lord, Lord True, rightly pointed out. All I can say is that perhaps that has given the Minister advance notice of any issues that might be raised when we come to that group, but I apologise for misleading the House on that point.

Secondly, my noble friend Lady Hughes and the noble Lord, Lord Sutherland, until he got into his view about academies and other schools, made the point that these debates on structures are rather tedious and sometimes detract from our overall concern about the outcome for individual pupils at our schools. I thought that the chief inspector, in his recent report, had it right when he said:

"Much of the education debate in recent years has revolved around school structure".

He refers to academies as having,

"injected vigour and competition into the system. But as academies have become the norm, success or failure hasn't automatically followed. The same can be said of those schools that have remained with local authorities".

I appeal for some balance in our debate. I do not understand the argument that academisation is automatically the route to be followed, because the evidence is not there. Where is the evidence? It is a fact, is it not, just to take the recent DfE 2015 data, that recent key stage 2 improvement results show that improvement is significantly greater in primary schools that are not academies—that it is actually greater in maintained schools? This becomes a very sterile argument. We have been debating this Bill for many happy hours and I am still waiting for the Minister to say something positive about maintained schools. Surely the 133 local authority schools graded as outstanding since 1 January deserve some recognition.

Lord Nash: My Lords, I would like to speak to the group containing Amendments 8B, 9B, 10B, 15B and 24, tabled in my name, regarding coasting schools and academies, and Amendments 8A, 8C, 8D, 9, 9A, 10, 10A, 11, 12, 13, 14, 15 and 15A regarding coasting schools, tabled by the noble Lords, Lord Addington, Lord Watson, and Lord Hunt, the noble Earl, Lord Listowel, and the noble Lord, Lord Sutherland.

First, on my most substantive amendment, Amendment 24 on academies, I am grateful for the support that the House has given this amendment. The vast majority of academies are performing well and the academies programme remains central to the Government's commitment to secure excellent education everywhere. The programme is firmly based on an approach that freedom, combined with strong accountability, raises standards. We have been clear right from the start that we will tackle underperformance wherever it occurs, whether in a maintained school or in an academy. I recognise, however, that our formal powers in relation to failing and coasting schools vary depending on the age of an academy's funding agreement. Indeed, the older the funding agreement is, the weaker the powers are—the noble Lord, Lord Hunt, referred to that variation. In some cases, that can restrict our ability to take action as strongly or swiftly as we would like. This is not acceptable. As the Secretary of State has said, and as a number of noble Lords have reiterated, a single day spent by a child in an underperforming school is a day too many.

Our amendment will ensure that we have the powers to hold all academies to account when they do not meet the high standards that we rightly expect and will create a more consistent framework for tackling underperformance across different types of schools. This is something that we have been considering for some time. We have listened to what noble Lords have said on the matter during the course of debate and have spoken to some of our leading sponsors. They—all of them charities, of course—tell us that they find the inconsistencies in the present system frustrating. The few cases of high-profile academy failure create a misleading picture of the excellent work being done by academies across the country. These cases have also allowed the myth to grow that the Government somehow favour academies and hold them to account less robustly than maintained schools. That is not the case, and I have in previous debates elaborated on how tough the regional schools commissioners have been, as my noble friend said, in rebrokering many cases.

[LORD NASH]

This amendment will further strengthen the ability of regional schools commissioners to take action where academies underperform. When an academy's performance meets one of two triggers in legislation—an inadequate Ofsted judgment or performance that falls within the coasting definition—and it cannot satisfy the regional schools commissioners that it has an adequate plan, as in the case of maintained schools, its funding agreement will be read as having, in effect, the same provisions around failing and coasting schools as are in our latest model funding agreement.

I hope that answers the point raised by the noble Baroness, Lady Hughes. We have already changed our new model funding agreement so that the coasting definition applies to academies, and the latest funding agreement has for some time had the ability to intervene rapidly in failing and inadequate academies. Where a school is failing or has failed to come out of a coasting situation, we will now read all funding agreements as if they had that clause in them.

In practice, this will give regional schools commissioners consistent powers to move a failing academy swiftly to a new sponsor and to require a coasting academy to demonstrate that it can make sufficient improvement. Where an academy is coasting—as with a coasting maintained school—the academy will be given the opportunity to demonstrate that it can improve sufficiently. Where a coasting academy does not have a credible plan to improve sufficiently, this amendment ensures that further action can be taken by the regional schools commissioner. This could ultimately include terminating the funding agreement and bringing in a new sponsor if this is the best way to ensure rapid and sustained improvement.

The noble Baroness, Lady Hughes, referred to the concept of a warning notice—I think she was referring to the warning notice in new Section 2B in my Amendment 24. She will be very familiar with the fact that academies operate through this contractual arrangement and the funding agreement. The termination warning notice in Amendment 24 is part of the process for terminating a coasting academy contract in those circumstances. The powers provided in this amendment take effect only when an academy is failing or meets the coasting definition. We will not interfere in the arrangements or freedoms of academies and free schools that are performing well. This approach reinforces the central principle of the academy programme: trusting heads to run their schools through freedom and autonomy, but at the same time holding them to account for the results their pupils achieve.

I hope the noble Lords, Lord Hunt and Lord Watson, and the noble Lord, Lord Addington, whose amendments 8A, 8C, 8D, 9A, 10A and 13 all seek to apply the coasting definition to academies, are reassured that we take academy performance very seriously and intend to hold academies to account in the same way we do maintained schools. I therefore urge the noble Lords not to press their amendments.

Turning now to my other amendments regarding coasting—Amendments 8B, 9B, 10B and 15B—I listened closely to all the points raised during the informed and wide-ranging debate we had on Clause 1 in Grand Committee. I know there is widespread support in this House for tackling schools that are not fulfilling the potential of their pupils, and I am grateful for that support. We all want every child, regardless of their background, to have the opportunity to go to a good school and receive the highest-quality education they deserve. Noble Lords have raised some very helpful and relevant points regarding the detail set out in Clause 1. I have considered these points very carefully and have decided to lay a number of government amendments, which will, I believe, further strengthen the Bill and address many of the points Peers have raised.

Amendments 8B and 10B remove an element of subjectivity from the coasting definition that could be implied by the current wording of the Bill. The text currently states that a school will be eligible for intervention when it has been notified that the Secretary of State considers it to be coasting. We have been clear from the outset that we want schools to be certain about whether they have fallen below the coasting bar. That is why our proposed coasting definition is clear, transparent and data-based. To make sure that schools are in no doubt about this, we are proposing to revise the wording of Clause 1 to remove the reference to "considers". This will also help ensure that schools are treated consistently across regions, as whether a school falls in scope will be down to data not someone's judgment. I hope noble Lords will agree that the amendment will increase transparency and certainty for schools and remove any unnecessary and unintentional anxiety teachers and head teachers may feel about whether their school could be identified as coasting.

Amendment 9B provides the Secretary of State with the power to disapply the coasting clauses from certain type of schools. The Bill as it is currently drafted applies to all maintained schools, including schools which we have no intention of applying the definition to, such as maintained nursery schools. As our proposed definition is based on key stage 2 and key stage 4 results—assessments pupils take at the age of 11 and 16—it would not be possible or appropriate to use such an approach to identify coasting maintained nursery schools. They will continue to be held to account through the Ofsted inspection regime.

Special schools are also currently included in the scope of the clause, and the noble Lord, Lord Addington, referred to this. Special schools should provide excellent education to their pupils, and we have high expectations for what children with special educational needs can achieve. However, it would be inappropriate and unfair to apply exactly the same expectations of pupil performance to these schools. We are consulting on whether and how we can develop a separate coasting definition for special schools. I am aware that this will not be easy but we are consulting on it. That consultation closes this Friday, and we expect to publish our response in the spring.

4.45 pm

Amendment 9B would give the Secretary of State powers to disapply the coasting definition from certain types of schools. It would allow Clause 1, the coasting clause, to be disapplied from maintained nursery schools and give us the scope to do the same for special

schools, should this be the outcome of the consultation. I am pleased to see that the noble Lord, Lord Addington, has proposed the almost identical Amendment 15A, and I hope that the House will join him in agreeing that this is a sensible change that will help improve clarity for schools and ensure that they are in no doubt about whether the coasting definition applies to them.

I turn to my Amendment 15B and Amendments 11 and 15 tabled by the noble Lords, Lord Hunt, Lord Watson and Lord Addington, regarding the affirmative procedure. In Grand Committee I undertook to consider carefully the concerns raised regarding this matter, and those highlighted by the Delegated Powers and Regulatory Reform Committee. As noble Lords are aware, we published illustrative regulations in June so that both Houses could understand and scrutinise our proposed approach to the definition of coasting.

A number of Peers have also had the opportunity to meet the department's statisticians to discuss the coasting definition in more depth. I know that the noble Lords, Lord Addington and Lord Lucas, took up the offer, and I hope that they found the meeting helpful. I believe that they were satisfied, with regard to the point made by the noble Lord, Lord Hunt, about schools with high-ability intakes, that the coasting definition, particularly when Progress 8 comes in for the full three years, will catch all schools, including grammar schools and selective schools. From the illustrative regulations, all Peers will know that our approach is firmly based on the department's long-established school performance tables.

As I have said previously, results for primary and secondary schools are published in the performance tables at two different points each year. This could necessitate changes to the regulations as national performance standards change. The performance tables are also technical and so, if minor changes are made to their layout or content, this may also necessitate minor consequential amendments to the regulations. The regulations by necessity refer very precisely to detail in the performance tables—for example, key stage 2 progress is defined as,

"the percentage shown in the 'all pupils' column of the KS2 performance table of each of the following rows in that table".

The regulations go on to list the precise headings of each row. If the wording in these performance table row and column headings changed in any way, the regulations would need to be amended under the affirmative procedure—laid before both Houses, debated and approved—before the updated regulations could be made. And this is just for key stage 2 progress; there are similar sections for key stage 4 progress, for attainment and for arrangements under the new accountability arrangements from 2016.

Similarly, if the department were to tweak or merely update the title of published guidance regarding Progress 8, for example, again the regulations would need to be updated as the proposed regulations refer to a specific version of the guidance. As noble Lords can see, the scope for minor changes needing to be made to the regulations is substantial. Requiring the consent of both Houses each time they are needed would seem an excessive use of Parliament's time.

We already consult widely when significant changes are made to accountability systems; we did so for the new measures coming in in 2016. I can reassure noble Lords on a point that the noble Lord, Lord Storey, was concerned about: if similar major changes to the accountability system underpinning the coasting definition were proposed, we would again undertake such a public consultation, with due time for debate. In fact, in response to the Workload Challenge, the Secretary of State committed in February that the department would introduce a minimum lead-in time of one year for significant changes that it makes to accountability, qualifications and curriculum. Finally, under the negative procedure Members in both Houses can still call for a debate and vote on the regulations should they have any concerns about the changes proposed.

For all these reasons, it would not be right or sensible to subject the regulations to the affirmative procedure every time they are amended. However, I appreciate that we are still consulting on the coasting definition and as such, Parliament has not had the opportunity to scrutinise the final version of the regulations during the passage of the Bill. I have therefore laid Amendment 15B, which will subject the regulations to the affirmative procedure when they are laid for the first time next year. I hope that the House will agree that this represents a sensible way forward, allowing both Houses to scrutinise and approve the details of the final regulations without creating an unnecessary and bureaucratic burden on parliamentary time. I therefore urge the noble Lord, Lord Addington, to withdraw his amendment and urge the noble Lords, Lord Hunt and Lord Watson, not to press theirs.

I will also speak briefly on Amendment 10, which has been proposed by the noble Lords, Lord Hunt and Lord Watson, and which proposes that the Secretary of State must make regulations under Clause 1 to define coasting. It has always been our intention that coasting regulations would be made and I am happy to remove any doubt regarding this matter. I am pleased that the noble Lords agreed with the undertaking I gave the Delegated Powers and Regulatory Reform Committee last month on this matter and have tabled an amendment which has this effect. I am therefore very happy to support their amendment.

Amendment 15, tabled by the noble Lord, Lord Addington, seeks to require regional schools commissioners to take account of the entire activity of a school when deciding whether that school has a credible plan to improve sufficiently. Such consideration would include looking at achievement in sports and the arts as well as access to training, further education, apprenticeships and work placements. These factors are, of course, extremely important. However, it is not right to include them in primary legislation.

I reassure the House again that we recognise the importance of taking into account the wider context of the school. The draft *Schools Causing Concern* guidance, which is out for consultation until the end of this week, already makes this clear. On page 10 it reads:

"In making decisions about which coasting maintained schools require action, and what action is necessary for those schools, RSCs will take into consideration the characteristics of a coasting school, and seek to understand the school, its context, and what factors may have led it to meet the coasting definition. For example,

[LORD NASH]

a school may have a large Special Educational Needs … unit. In this circumstance, the RSC may wish to examine the data from the different parts of the school and not make their decisions solely on the basis of the overall results. They may also consider data and other evidence which might indicate the causes of the school's current underperformance, and therefore what the most appropriate action would be to bring about sufficient improvement".

It carries on in more detail, setting out that the RSCs may look at a range of factors, including, but not limited to:

"Educational performance and progress data for that school, further to the data that meant the school was identified as coasting … other data about the school, such as pupil attendance",

and:

"Recent judgements and assessments that Ofsted has made of the school".

This last factor is particularly relevant in the context of the amendment in the name of the noble Lord, Lord Addington. Ofsted already looks at a wide range of factors to inform its judgments. This includes how well prepared pupils are for training and employment, the use of the PE and sports premium, and the delivery of a broad and balanced curriculum. The guidance also makes it clear that RSCs can take a range of actions once they have considered all the evidence about a school's performance, including its characteristics and its context. This can include taking no further action where an RSC is satisfied with the data and evidence they have seen.

I therefore hope that having been able to consider the *Schools Causing Concern* guidance in its draft form in detail, the noble Lord will be reassured that a school's context and wider achievements are exactly the kind of evidence that regional schools commissioners can look at when assessing the capacity of schools whose performance puts them within a data-driven coasting definition. I am happy to commit to do more in the final version of the guidance to make this explicit, but I hope that the noble Lord will understand the Government's intentions here.

Amendment 14, from the noble Earl, Lord Listowel, and the noble Lord, Lord Sutherland, seeks to exclude from the coasting definition the performance data of pupils absent from school for medical reasons for more than 15 days in any one year. I fully understand the noble Lord's concern that the coasting definition could be seen as a disincentive for mainstream schools to reintegrate pupils who have missed school for medical reasons if the school feels that it will be penalised for the progress or lack of progress made by these pupils while they were absent. However, I assure the noble Lord that this will not be the case. Intervention in coasting schools will not be automatic.

The draft *Schools Causing Concern* guidance, which, as I said, is currently out for consultation, is clear that, while data will allow us to determine which schools fall within the coasting definition, RSCs may consider a range of other factors and quantitative information when deciding the best course of action to take with a coasting school. The guidance also explicitly states that this could include looking at pupil attendance data, which are published annually for all schools as part of the performance tables. I hope that this will reassure the noble Earl that the requirement that his amendment seeks to introduce is not necessary.

Amendment 9, tabled by the noble Lord, Lord Addington, seeks to take our proposal that coasting will be measured over a three-year period and place it in primary legislation rather than in regulations, as we propose. It also requires schools to be notified during the initial three-year period of whether their performance in any one year is such that, if repeated over a three-year period, they would fall within the coasting definition. Our proposed coasting definition, based on three years of performance data, is clear and transparent to schools. Schools will know themselves when their performance has fallen below the coasting bar and, just as importantly, when it has not. The amendment, which proposes that schools should be notified each year they fall below the coasting bar, is therefore not necessary. All schools will already know where they stand.

We have also been clear, right from the start, that one of the fundamental principles of our coasting policy is that it should measure a school's performance over time. Our proposed definition suggests that this should mean where a school's data show that it is failing to fulfil its pupils' potential over a three-year period. We are still consulting on this proposed definition, including whether it is right that it should be based specifically on three years' performance. I believe that teachers would prefer such an approach rather than looking at results in just a single year. The CEO of the Burnt Mill Academy Trust has supported this view, saying that,

"having a coasting definition which is based on performance over time, rather than snapshot judgement is really important".

Even once our consultation has concluded, I do not think it would be right to be as detailed or prescriptive on the face of the Bill as this amendment proposes. However, it is certainly right that this House has the opportunity to understand and debate the final proposed approach when we lay our coasting regulations for the first time. That is why we have brought forward government Amendment 15B, which will apply the affirmative procedure to the coasting regulations when we first lay them. This will give both Houses the opportunity to debate and approve the detail of the coasting definition, including the length of time that a school must fall within the definition to be classed as coasting. I therefore urge the noble Lord not to press this amendment.

Amendment 12, tabled by the noble Lords, Lord Watson and Lord Hunt, proposes that a governing body must inform parents that the school has been notified that it is coasting. I assure the House that I understand the intention behind the amendment but I do not agree that there is a need to legislate to place such a requirement on governing bodies. The purpose of the coasting definition is to identify the schools that are not enabling pupils to fulfil their potential. We do not want to use legislation to create more duties and more bureaucracy for governing bodies.

However, my noble friend Lady Evans undertook to consider what, short of legislation, could be done through the *Schools Causing Concern* guidance to ensure that parents were aware that their child's school had been identified as coasting. Having considered this issue further, I am pleased to be able to confirm various commitments today. We will use the notification that regional schools commissioners will have to send

to the governing bodies of coasting schools—by virtue of Clause 1(3)—to make very clear our expectation that governing bodies will inform parents that the school has been identified as coasting. We will reiterate this expectation in the *Schools Causing Concern* guidance and in the *Governors' Handbook*—a very important document for all governors. I hope that this undertaking will reassure the noble Lords and I urge them not to press this amendment.

I am grateful to the noble Baroness, Lady Howarth, for her comments about putting the interests of children first. I assure her that we regard the interests of children as paramount in all this.

The noble Lord, Lord Hunt, made a number of points and I shall attempt to deal with them all. He again referred to the fact that he thought I never had anything nice to say about maintained schools. I agree that there are plenty of excellent maintained schools in the country, and I referred to an excellent visit that I had to Morpeth School in Tower Hamlets with the noble Baroness, Lady Jones—a maintained school which was incredibly impressive.

The noble Lord went a bit off piste on Amendment 20 but I will not comment on that now. I am sorry to disappoint him but nothing that he has said has surprised me, and I am not really any the wiser as to what he might say.

I can confirm that the coasting definition does not apply to 16 to 19 academies. We are basing it on data for key stages 2 and 4.

The noble Lord also made a point about the use of the articles in some of the earlier, Labour-originated funding agreements. I can explain that to him in more detail—it is quite technical—but it is not a clause that has ever been used and nothing turns on it. So it is absolutely clear from the funding agreement that people will not be able to step out of this in any way by any clever tricks in relation to changing the articles.

5 pm

The noble Lord also asked what a registered parent was. A registered parent is the person or persons whose name is shown in a school's register of pupils as a pupil's parent, which includes carers and guardians. The school must keep a register containing, among other things, the name and address of every person known by the school to be a parent of a pupil.

The noble Baroness, Lady Hughes, asked about timescales. I think she was referring to the timescale in which parents could be informed about what was going on in relation to a school becoming an academy. I assume that that is what she was referring to.

Baroness Hughes of Stretford: I really meant that, in the event that the provisions of government Amendment 24 were to be invoked because an academy was either coasting or failing, what did the Minister envisage would be the timescale to get it back on track?

Lord Nash: For a failing academy we would proceed as quickly as we could identify an alternative sponsor. There would be no question of the school closing, unless there was no demand for the school. In all the cases that we have brokeraged, to which my noble friend Lord O'Shaughnessy referred, we have waited until we identified another sponsor and moved on as quickly as possible. Generally, we are talking about a few months.

There was a question about whether different sets of regulations would apply to maintained schools and academies. There will be just one set of regulations. This is made clear by subsection (6) of new Clause 2B.

In conclusion, I note that noble Lords support our ambition to ensure that all pupils, whatever their background, receive an education that enables them to flourish. I hope that this debate and the amendments that I have laid will reassure the House that our approach will help us to achieve this ambition. I therefore urge the noble Lords not to press their amendments and to support the government amendment that I have laid.

Lord Addington: My Lords, it has been an interesting and very wide-ranging debate. I do not envy the Minister his challenge of bringing all these amendments together in one group. However, I will try to finish where I began. I thank the Minister for Amendment 24 but have one word of caution, although I am probably teaching granny to suck eggs here. Given that the noble Lord, Lord Hunt, and the noble and learned Lord, Lord Mackay, think that this should be looked at again for technical reasons, I hope that the Minister will encourage his officials to do that. He is nodding his head, and that is very much appreciated. That is what Third Reading is for; if there is a technical problem with this amendment, which is generally welcomed, let us get it right.

Amendment 15 was not a "may" or "shall" but a "must" and "may"—the updated version of that hardy perennial of Parliament. I take some reassurance from what the Minister said. The amendment was based on the exact regulations he looked at. I have had excellent help of late. I am more comfortable about the idea that the whole school be taken more into account. However, I think that we should keep an eye on this because it would be very easy to slip back to asking what the exam results are and saying, "That is it—final". The whole House agrees that that is not a great model. There must be some flexibility. Once again the Minister nods his head, and so I am reassured.

I thank the Minister for correcting what was basically a flaw in the Bill and for doing that very promptly. I beg leave to withdraw the amendment.

Amendment 8A withdrawn.

Amendment 8B

Moved by ***Lord Nash***

8B: Clause 1, page 1, line 10, leave out from "if" to end of line 14 and insert "—

(a) the school is coasting, and

"(b) the Secretary of State has notified the governing body that it is coasting."

Amendment 8B agreed.

Amendments 8C to 9A not moved.

Amendment 9B

Moved by ***Lord Nash***

9B: Clause 1, page 1, line 14, at end insert—

"( ) The Secretary of State may by regulations provide that this section does not apply in relation to a school of a description specified in the regulations."

Amendment 9B agreed.

Amendment 10

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

10: Clause 1, page 1, line 15, leave out "may" and insert "must"

Amendment 10 agreed.

Amendment 10A not moved.

Amendment 10B

Moved by ***Lord Nash***

10B: Clause 1, page 1, line 16, leave out "for the purposes of subsection (1)" and insert "to which this section applies"

Amendment 10B agreed.

Amendments 11 to 15A not moved.

Amendment 15B

Moved by ***Lord Nash***

15B: Clause 1, page 1, line 16, at end insert—

"( ) In section 182 (Parliamentary control of orders and regulations), in subsection (3), after paragraph (a) insert—

"(aza) the first regulations to be made under section 60B(2) (regulations defining "coasting" in relation to a school),"."

Amendment 15B agreed.

Clause 7: Duty to make Academy orders

Amendment 15C

Moved by ***Lord Watson of Invergowrie***

15C: Clause 7, page 6, line 5, leave out "must" and insert "may"

Lord Watson of Invergowrie (Lab): My Lords, these amendments emphasise the need for consultation before a school becomes an academy. Consultation already exists for schools that themselves decide to become academies, so these amendments seek to establish a level playing field for all schools and retain the requirement for consultation in all cases.

Amendment 15C is straightforward, allowing the Secretary of State discretion in the issuing of an academy order. Amendment 16 would insert a new Clause 7 into the Bill, which would remove the assumption that there is only one form of governance suitable for such schools, by requiring the regional schools commissioner to facilitate a local discussion about what is best for that school and the area that it serves.

Amendment 17 requires parents to be involved in discussions about the future of their children's school, which is hardly a controversial proposal. However, I am not convinced that the Government appreciate the extent to which schools are deeply rooted in their communities. Parents should be allowed to be as fully engaged in decisions that affect their children's education as they wish to be or have the time to be—but not just parents. Cutting short the process of academisation and removing any discussion with head teachers, teachers or support staff about either the decision to become an academy or the sponsor that might take over are ill-considered decisions likely to breed mistrust and resentment—and understandably so.

Consultation with those directly involved before a school becomes an academy is an essential part of community engagement and should not be removed. That was agreed by the previous Government after considerable debate in both Houses during the passage of the Academies Act 2010. Members of your Lordships' House were influential at that time, insisting that consultation was built into the 2010 Act. It would be at best inconsistent if noble Lords did not support the same principle with respect to this Bill.

Section 5 of the Academies Act 2010 allows for consultation to take place before a maintained school is converted into an academy—as it should be. It may take time and it may not result in support for academisation, but that is basic democracy, which sometimes produces unwanted outcomes; on a personal level, 7 May this year springs to mind. Our Amendment 16A provides for the time allowed to be set out in regulations. In any case, inconvenience or even the potential thwarting of political motives is no reason to dispense with democracy, as the Minister is seemingly content to do. The Government say that this is about putting children above adults, a view echoed by the noble Lord, Lord Sutherland of Houndwood. I do not accept that. I believe that a lot of political dogma is involved in this, which is being put above the views and concerns of local stakeholders. It seems that no opposition will be tolerated. That is because underpinning the Government's whole approach is the belief that maintained schools are, by definition, deemed to be failing. If they are not failing at this moment, they are coasting and it is only a matter of time before they too fail. For them, the logic of the Bill—I accept this much—is unchallengeable. Unfortunately for them, the facts get in the way of that one-size-fits-all conclusion. The Bill rests on the assumption that school improvement can be achieved only by turning a school into a sponsored academy, yet the evidence to support this view does not exist.

At the beginning of this month Ofsted published its annual report for 2014-15. The report demonstrated that conversion to academy status certainly does not result in guaranteed improvement, with 99 converter academy schools—23% of converter academies were inspected that year—declining to less than a "good" Ofsted judgment. Ofsted found that of the 277 stand-alone

converter academies, 25% had declined from "good" or "outstanding" to "requires improvement" or "inadequate". In addition, 21% of converter academies in multi-academy trusts had declined to "requires improvement" or "inadequate" from a previous judgment of "good" or "outstanding". Ofsted also found that 75% of "good" local authority maintained schools remained "good" or improved to "outstanding" at their next inspection, compared to 74% of "good" academies.

I believe that Ministers need to take these figures on board and give them due consideration. Even rose-tinted spectacles cannot disguise the fact that academisation is simply not the silver bullet that they will it to be. If they will not heed Opposition Peers on this matter, surely they must listen to one of their own. I am not referring here to the noble Lord, Lord True, but to someone who I am certain he will know. Roy Perry is a Tory and a politician of some substance. He is leader of Hampshire Council, chair of the Local Government Association's children and young people board, former Member of the European Parliament and father of a current MP. Responding to the Ofsted report, Councillor Perry said:

"It is extremely worrying that over the last three years only 37% of secondary schools have actually improved their Ofsted rating after becoming academies".

He also said:

"Councils must be regarded as education improvement partners and be allowed to intervene early and use their vast experience, integrity and desire to improve the system."

I referred in Committee to the Minister setting out his reasons for ruling out consultation. Recently the Secretary of State herself complained that campaigners could delay or overrule failing schools being improved by what she termed "education experts", by obstructing the process by which academy sponsors take over running schools. I repeat that: "education experts". I do not know how one would therefore describe those who manage and run maintained schools if they are not also "education experts". I believe that it is an insult to them to be told that the only way their school can be improved is by bringing in outsiders who think they know better. As we have seen, very often they do not.

I have to say that the Secretary of State seems to have a bent for inflammatory language recently. I do not know whether noble Lords are aware that she was involved this morning in a rather bizarre activity; blogging on the *Daily Telegraph* website under the subtitle:

"If the House of Lords blocks the government's education bill, it will leave millions of children stuck in failing schools, unable to reach their potential".

That is arrant nonsense. There is no justification on the basis of logic or evidence which can substantiate such a statement. I understand it is party-political rhetoric, although noble Lords may regard it as unbecoming of someone holding the office of Secretary of State for Education. Interestingly, the comments in reply to her blog on the whole disagreed with her, so perhaps her initiative did not pay off. Perhaps that is not surprising given that she stated of your Lordships' House:

"The Lords face deciding whether to back handing power to our best teachers and school leaders—a treasure chest of experts ready to improve underperforming schools—or leave schools without the vital support they need to get back on track to the level of excellence seen in many schools across the country".

That language is very unhelpful.

Let us be clear: the Bill is not about school autonomy. Converter academies do get more autonomy, but the Bill is about sponsored academies, where a school is placed in a multi-academy trust and often has considerably less autonomy as a result. The question is why moving a school from the maintained sector to a multi-academy trust necessarily makes a difference or in any way gives heads more freedom.

Amendment 15C seeks to amend Clause 7, which represents an extraordinary departure from the normal processes of governmental decision-making. Under the clause, the Secretary of State is not allowed to make a decision. She seeks to bind herself to make an academy order, and nothing less. Surely there must be some flexibility in the system to allow the Secretary of State to reach a considered view, having looked beneath the assessment and heard what the stakeholders have to say. Of course in some cases there will be no opposition to academisation, and even where there is, having listened, the Secretary of State will arrive at her view, which may well be that academisation should go ahead. The amendment does not prevent her making such a decision; it simply stops it becoming automatic. No two schools are precisely the same, so why should there be the same outcome in all cases? It does not make sense either logically or in educational terms.

5.15 pm

Local people and communities are right to be angered if they are shut out of decisions that affect their children. The Government's authoritarian approach denies people respect and is made even worse by being carried out largely behind closed doors by regional schools commissioners and head teacher boards which are not representative of regions, far less the communities within them. I had a meeting last week with a regional schools commissioner, and very helpful it was too, but it was clear that as hard as they try, regional schools commissioners cannot take anything other than an umbrella approach to their area because of their sheer size. The idea of local representation in any form is actually not achievable, even for the head teacher boards, given the spread that they seek to achieve.

If the Minister will not listen to me on the need for consultation, I hope that I will not embarrass him if I refer him to my noble friend Lady Morris of Yardley, a former Secretary of State for Education, of course, who talked in Committee about the role of consultation:

"The nature of the job is that sometimes you get what you think is the most unreasonable opposition and it drives you mad. You feel like you have had a bad day at the office, but you have to get up and go through it again the next day. That is the nature of being a Minister in a democratic institution".—[*Official Report*, 10/11/15; col. GC 503.]

I believe that the Minister should take note of those wise words based on much experience.

In conclusion, when controversial changes are being proposed, it is better at least to attempt to carry people with you. That increases the chances of making

[Lord Watson of Invergowrie]
the change more smooth and, importantly, successful. Academisation represents a fundamental change for a school and naturally the parents will be concerned. Change can bring with it fear and, if no one is explaining to them what is proposed, people will wonder about what is being kept from them. You cannot prevent parents talking about what is being proposed and you are not going to stop them expressing their views. They may well make more of a fuss about not being given a say than about the actual change to an academy, so why not channel that energy through consultation? There is an unanswerable case for consultation as set out in Amendments 16, 16A and 17, and there is no reason for it to be withdrawn simply because in a small number of cases people might disagree. That is not a convincing rationale, and for that reason consultation must be introduced into the Bill, as happened in 2010. I beg to move.

Lord Storey: My Lords, I shall speak to Amendments 15C and 16A. I guess that every Member of the House who has children thought long and hard about the school they wanted to send their children to. Finding the right school to meet the needs of a child at both primary and secondary level is crucial. In some cases where there is no suitable school, or which they think is not suitable, parents have gone to the free school movement and established their own schools. In other cases parents with the resources to do so choose to buy a school place in the independent sector. The choice of a school has been a hugely important part of our education system.

As I said in Committee, when a school closes or changes in nature, it is traumatic for the children, traumatic for the parents, and certainly traumatic for the staff. So what are we going to do? Going back to the previous debate, let us consider a school that is failing. The regional schools commissioner, who by the way is not regional and certainly not local, can decide that the school will close and that a sponsor for a new school will be found. There will be no discussion or consultation with parents. It might well be that the school that the regional schools commissioner puts forward is not the school the parent wants—but tough. For a long time, parental choice has been ingrained in, and has been an important part of, our education system. Various Secretaries of State, both Labour and Conservative, have enshrined the idea of parental choice and parental involvement. Surely, it is right that a parent has the opportunity to express their views.

Following Committee stage, I am pleased that the Minister has made some progress in this regard. He chooses to use the word "communication" and not consultation. When the regional schools commissioner has identified an academy sponsor to take over a school eligible for intervention, the sponsor must communicate to parents information about plans to improve the school. When the regional commissioner decides that a school is failing, will they write to every parent telling them what is happening and what will happen so that they have an understanding of why and when? The letter says that there will be guidance as regards schools causing concern and that they may, if they wish to, have a meeting or they may choose just to write to parents. Would it not be a good idea to specify clearly what should be expected of sponsors when taking over a school so that parents have that information?

Crucially, parents want more involvement in education. They want a say in their child's schooling—everyone here has wanted a say in our child's schooling. The selection of the sponsor is critical to the child's future. Not all sponsors, as the Sutton Trust shows, are as effective as others, particularly, for example, in supporting disadvantaged pupils. I shall give an example of where consultation works. The line we have constantly heard—I think that the noble Lord, Lord Sutherland, repeated it—is that a single day in a failing school is a day too long for that child. A single day in the wrong school is too much for that child. A single day in a school which the parents are unhappy with, or has had foisted on them, is too long. Let me give an example of parents who were consulted and made a change. It happened at a primary school in Medway with a large number of pupils who had special needs. They were not opposed to academisation but they were opposed to the sponsor proposed by the DfE. After consultation, and no doubt a short campaign, the academy withdrew. Presumably, it realised that it had not got the wherewithal to deal with that situation.

The other argument against consultation has been the line that it can drag on for months and years, et cetera, which of course is wrong. But it does not mean that there cannot be a very quick consultation over a few months so that the parents are involved. I hope that even at this late stage the Minister might consider how important consultation is to parents and their children.

Baroness Morris of Yardley (Lab): My Lords, I will speak only briefly on the amendment because the issue of consultation has been covered in an earlier group. I will make two or three points. For me, consultation is not the most important part of the Bill, but it is an important point of principle. Once we decide something today, it will probably set the pattern for future ways we deal with schools, so it is worth spending some time on.

My first point was made by the noble Lord, Lord Sutherland, about the now famous phrase that noble Lords have used during the passage of the Bill: "A day in a school that is failing is a day too long". I am not sure why the consequence of that is that parents should be denied consultation; it should be that the education system gets its act together. Let us say that three years go by in a coasting school—a school is inadequate. It is not a case of who is to blame, but if you ask what went wrong—it could have been poor leadership; something that Ofsted missed; we could have missed the data; we may not have acted quickly enough; support put in might have been at the wrong point at the wrong time—of all the people who could have got it wrong, it probably was not parents. Yet the bit of the system that we change at this point is, "Well, we won't consult parents"—almost as though they will be the problem, rather than the potential solution. This is not a huge point, but we have to ask why, if a child should not be in a failing school for a day longer,

the education system responsible for that should just carry on working and why parents should be squeezed out.

The noble Lord, Lord Sutherland, made another point about this terrible phrase, "We are where we are". It is one of my least favourite phrases, but we are where we are. Over the last 20 years, one of the features that we have put in our education system, which the noble Lord, Lord Storey, just mentioned, is the increasing involvement of parents. I think the noble Lord, Lord True, mentioned what happened in consultation in the grant-maintained days. It is true that it was not a pretty sight, but, believe it or not, that was nearly 30 years ago. Lots of things have happened since then. Whether it is setting up free schools, parents' right to call in Ofsted inspectors, or the mooted idea that parents should have the right to demand the curriculum, to sack the head or whatever, there has been a trend over the last 20 years of giving parents a louder voice, not only in the education of their own child, which is paramount, but in the education structure their child is in. Whether we like it or not, we are where we are with parental consultation. We have to make a really strong case, given the climate in which we are working, that parents should be excluded on this.

Under new Section 2A(2), introduced by the Minister's Amendment 24, in a case of a failing school where the academy sponsor has not delivered the goods and must hold some responsibility, and where the department is taking action, the proprietor must be given an opportunity to make representations before the academy sponsor is changed. That is a big issue. If we write into primary legislation that an academy proprietor that has not done a good job—that is why the organisation has been moved out—must have an opportunity to make representations, I am not sure why would want to strike out of legislation the opportunity for parents to make representations as well.

Consulting parents is rarely a bad thing, but it calls for sensitivity and determination, because I do not believe that parents always get it right. I do not agree with the amendment that there should be a plebiscite in all cases and that we should take the action that parents vote for. However, it should be part of this important process.

5.30 pm

Baroness Massey of Darwen: My Lords, I support this group of amendments. On Amendment 16A, I always thought it curious that schools applying for academy status must consult, but those issued with an academy order do not need to. To move on, I hope that the Government will accept the amendments on the need to consult. I remember, as I have said, being a parent and governor in London at the time of comprehensivisation. Yes, it was sometimes bloody. The noble Lord, Lord Storey, mentioned trauma. It was traumatic: there were banners in the streets and protests. But finally, having consulted parents, everything settled down. It did not take all that long. The time allowed for consultation can be defined; it does not have to go on for ever.

It is disrespectful and dangerous not to consult parents. Consultation with parents brings them more onside with what is going on and makes them more likely to support the school that their children will enter.

Amendment 15C is interesting and important, but I am reminded of the Minister's remarks on coasting towards the end of his speech on the first group of amendments, and of one of his letters—I think to the noble Lord, Lord Lucas—which stated:

> "Where a school has the capacity to improve sufficiently, we will give it the time and space to do so".

The Minister refers there to the very important principle of having the possibility to think again, hesitate and perhaps seek further advice and information. I apply this to the Secretary of State. If the Secretary of State may—rather than must—intervene in the issuing of an academy order, that gives him or her an opportunity to look at the situation again. Looking again is often a very good thing.

Lord True: My Lords, I agree with many of the remarks of the noble Baroness, Lady Morris, about the role of parents. It may have been 30 years ago that we had the disgraceful intimidation and political machinations in the consultation over grant-maintained schools. However, as I said at Second Reading, if you look at the anti-academies websites and those of many of the other activists who want to stop academies, you will see the same sentiments, tactics, and calls for strike action and action against this measure, so I am afraid that that spirit is still out there in the world. However, the new leadership of the Labour Party may stamp it out, and I look forward to that.

Of course, parents have a role. I do not want to repeat what I said at Second Reading as this is Report, but we need to watch this legislation. My local authority was very grateful to receive a visit from the Prime Minister on Monday, who praised the quality of our children's services. Many local authorities perform well, and it is a pity that those authorities are not given more space. I am concerned about bureaucracy in connection with the regional schools commissioners but we must address the Bill and the amendments that are before us. The worst amendment in this group is—perhaps not surprisingly—the one that has attracted the interest of the Liberal Democrat Benches, namely Amendment 16A. I would be very disappointed if colleagues on the other side of the House united to support it. The amendment is concerned with schools that are causing concern where children are being failed and where intervention is needed. It proposes that we should delay intervention while someone consults the very governors of the school who have failed the pupils at that school. Those governors are referred to in proposed new subsection (2)(c) of the amendment. Are we in the House of Lords going to state in an Act of Parliament that the very people who have failed children must be consulted before something can be done? I cannot believe that we would support that.

It may well be that the "relevant local authority" referred to in Amendment 16A has failed, and that its performance is causing Ofsted concern. Why, then, should we insist that it be consulted when a school's

[LORD TRUE]
children need to be helped, or, indeed, that the teachers at the school should be consulted, as proposed in new subsection (2)(b) of the amendment? It has to be said, although it is harsh, that the teachers at the school may be some of the people whose performance has caused the problems. Therefore, I would be astonished if the Labour Party, which at least pays lip service to supporting academies—I am never quite sure whether the Liberal Democrats support them or not, but most of the time they seem not to do so—were to line up with the Liberal Democrats and say that we must have an elaborate consultation involving the very people who failed children in the first place.

This amendment also refers to,

"the minimum length of time that must be allowed".

At the very least we should have the maximum time allowed—I suggest no days for pursuing or consulting a governing body that has failed children.

The Earl of Listowel: My Lords, listening to this debate, I feel it is finely poised. It is so important to bring parents along with one and it is so important not to delay in improving the educational experience of young people. I wanted to say a little in praise of academies, from my limited experience. When, under the previous Government, the legislation introducing academies came to this House, I strongly opposed it for a number of reasons. One was that it seemed to place structures above the most important thing, which is getting excellent teachers into the classroom.

My experience, from when I first entered your Lordships' House, has been of the truth of the inverse care law. That is, that the most disadvantaged, poorest people and children are cared for by the least well-paid, lowest-status, least well-qualified people. In social care and in education, our aim should be to recruit and retain the very best people and put them on the front line with children and vulnerable families. I was therefore concerned that the focus was not right.

However, what I have heard in the course of discussing the Bill has somewhat encouraged me. First, for those who attended the meeting with the regional schools commissioners and the head teachers of academy schools, I think it came through very clearly that the benefits brought by academy status, in terms of the governance and leadership of schools, were described positively as bringing fresh blood and excellent governors to the boards. We have heard repeatedly in recent years, and very recently from Sir Michael Wilshaw, that there is continuing concern about the quality of governors. It was good to hear the noble Baroness, Lady Pinnock, provide some comfort that, thanks to new regulations, in her experience at least, two new governors had come on to her board from local business. However, clearly that is not happening everywhere.

I was grateful to the Minister for arranging for me to visit the Ark school, King Solomon Academy, in Marylebone. It is in an area with a high level of free school meals; the area is very multi-ethnic, with a large migrant population. It is also the best performing non-selective school in the country. I learnt that there was outstanding governance there; superb leaders had come out of the City with a vision and had driven the school forward. The head teacher, Max Haimendorf, was recruited from the Teach First scheme—he was maybe only 28 when he became head teacher—and most of the other teachers are also from Teach First.

I reflected that, by this process of encouraging the very best governance in schools, one achieves the aim that I, and I think many others, have of finding the means to recruit and retain the very best teachers, at the front line. I hope I make that point clear. It seems to me that one benefit, which I hope will increase over time, is that by improving the governance and leadership of our schools, they will attract and retain the very best teachers, delivering those teachers to the vulnerable pupils who need them most.

Baroness Howarth of Breckland: Briefly, this debate has shown that both sides are right. There are two issues being debated. One is that parents must know what is happening when a school is changing. Whether that involves some sort of consultation seems to be the question but if parents do not know throughout—indeed, from the very beginning—there is something severely wrong with the school. All the instructions within a school should lead to the governors, the teachers, the head teacher, making that communication with parents from the very first day that something seems to be going wrong. If the outside world does not know, Ofsted will make it clear at some inspection that it knows there is a problem in the school, or there will be some event that makes it absolutely clear. The parents will therefore know that.

Whether parents should then be consulted is an interesting question. I think parents should be involved all the way along in discussion and understanding but I rather question what the noble Lord, Lord Watson, said. I am sorry that we seem to have a fundamental disagreement about where children stand in relation to parents. When he said that democracy was crucial but that it may come to unwanted outcomes, for me an unwanted outcome cannot be that a failing school is allowed to continue because parents have a particular connection with governors and teachers. We have seen that in some schools, where together they do not want change that would be in the best interests of the individual children. I had wanted to congratulate the Opposition, because they began the academies. The academies have worked but are not the total answer. I absolutely agree that local authorities do not get the praise that they should, not only in education but throughout the work that they are struggling with. If we got more balance in that, it might also help.

I agree with the point made by the noble Lord, Lord Storey, that we have to take a positive view of the way that academies are deliberated on, particularly with parents in that consultation. But we are talking about process, not principle, and the process is absolutely essential to make sure that everyone is involved, certainly local communities. It is not only parents who take a great interest in their school because it is a central part of the community's life. But no one in my village is at all uncertain about the fact that the school has gone through a series of changes. It has been in special measures at one point and is now an academy. The discussions have gone on in the village because those changes are generally known.

I hope that the Minister will ensure that that kind of communication is enforced because I cannot imagine what it would be like if it came as a surprise to a local community, particularly to those parents who depend on a small school in rural areas where choice is limited. I reiterate that the children's needs are paramount and if democracy was to overrule that paramountcy, then I fear that I am no longer a democrat. I would rather go for ensuring that children really get the education that they deserve.

Lord Sutherland of Houndwood: My Lords, I do feel challenged as no fewer than three speakers have indicated that there is something wrong with my views. I wish to reassure my colleagues that I know of good maintained schools. I could take your Lordships to some now on a short Underground ride. I know of them and I know what they are doing, and they do excellent work. I know that some local authorities provide excellent support. I will not name them, but I could.

But my worry is that we will make this a black and white issue when we are talking about an "on balance" thing. The only reason that it looks black and white is that we have to decide yes or no to having a clause in the Bill. Sometimes it is "yes, but" and sometimes it is definitely no or yes. We are talking about the interchange between the two. I wonder whether my fault has been to support the Government but, just to provide reassurance, your Lordships should have heard me last week when we were talking about care homes. I gave the Government a pasting then, so I have not gone completely blue; there are still hints on either side.

To go back to Scotland, I know of some excellent maintained schools there. I would not wish to suggest anything else. I know of excellent teachers there, just as there are excellent teachers throughout the system here. But interestingly, the outstanding maintained school in Scotland is Jordanhill. What is distinctive about Jordanhill? It is the only one that stands aside from the maintained sector: although the funds are provided, it has its own governance, powers and autonomy, the likes of which many academies would love. It is the number one school, and all parents want their children to go there. It is not just because of the autonomy—no doubt a whole range of things contribute to this, including the catchment area and its wise use of resources—but that is the reality.

5.45 pm

We should set that alongside the fact that Scotland was offered a pilot independent school—by someone who was at that time a Member of this House—but turned it down. It was not invented here; possibly even worse, it was invented down there. That offer was rejected, but if it had been accepted, perhaps there would have been a move in a positive direction pioneered by Members of this House such as the noble Lord, Lord Harris, who I see here today. I insist that this is not black and white. Academies are not automatically good or maintained schools bad; nor is it maintained schools good, academies bad. We are not in an Orwellian world; there are balances to be observed here. The balance of evidence on the changes in the system down here—not in individual schools, as there are academies that are not functioning well and maintained schools that are not functioning well—has to be taken account of.

I have one last word on consultation. I would be more persuaded of the move in this direction if we were talking about something more like a conversation. Furthermore, it should not happen after a school is declared to be coasting or failing; it should have happened three years before. I think we are all agreed that that is when the conversation should take place, and putting in a provision demanding a formal consultation, which will extend the process of change, I have no doubt, is doing it the wrong way round. I would love to discuss with colleagues from all around the House the possibility of how you initiate such a discussion, and I hope that the DfE note-takers are taking note of this as something that they should be looking at and putting in place, because that would do more good than the black and white approach that we have here.

Lastly, I have a cheeky little comment. I am a bit aghast at the ease with which we say we know what the words democracy and choice mean. I could take your Lordships to authorities now where there is no choice for parents whose children are moving from primary to secondary school. My own grandchildren had seven potential schools but, in the end, those did not include the one over the back fence, which was between them and the primary school which they attended. Choice is a nice, round and grand term, but it is no more a reality than so-called democracy. However, to know what democracy means in detail but not to understand what coasting means seems to me a real trick of the trade.

Baroness Pinnock: My Lords, we have had a very interesting and compelling debate on this topic, but one element that has not been raised across your Lordships' Chamber is that consultation provides a great opportunity for potential sponsors to sell their wares. If they are to take over a school, consultation provides them with a platform where they can show what they are going to offer and allow parents the opportunity to question them and understand what difference potential sponsors could make to their children's school. That is a very valuable part of a consultation process.

In my head, consultation does not involve a plebiscite of parents, teachers, staff and governors, but it does involve an in-depth conversation, which is built into the process. That is why it is so important.

I must take exception with the noble Lord, Lord True, about why people who have overseen failure in their school should be part of the conversation. I will tell your Lordships why: because that is the moment at which they are called publicly to account. They have to present to parents the reason why their school is not fit to be continued under the current governorship and leadership and why it is important to pass it on.

Lord True: Is the noble Baroness suggesting that there should be public hearings as part of the consultation where governors appear in halls and are asked questions? How long is this process going to take? Who else will appear before these hearings?

Baroness Pinnock: Anyone involved in local government, as is the noble Lord, Lord True, knows that you can set a programme for consultation that can be as short as six weeks. That is a normal period for consultation in local government. If six weeks is what it takes, that to me is time well spent in having that in-depth conversation, an opportunity for people to get together to understand what has gone wrong and how it can be improved.

I will tell the noble Lord something from the part of the country I come from: you do not dictate to Yorkshire people, because if you do you will have them on the wrong side from the word go. I assume that other parts of the country can be that rebellious as well. We must have consultation, but we on this side of the House do not believe that that is a plebiscite, it is a discussion about how the school can be best improved by all parties coming together to make that difference to a child's education, which is fundamentally what it is about.

The Lord Bishop of Ely: My Lords, I am very keen to support the idea of effective communication with our parents, not least about the ethos and character of schools, given that they have a deep effect. We see in the good key stage 2 results this last year the impact of character and ethos on effective academic results. Our parents are really keen to ensure that in any change of school, its ethos and character are maintained and that that is effectively communicated to them by any academy proprietor.

I had submitted my own amendment, which I have now withdrawn because I am content, following conversation with the Minister, that he agrees that ethos and character can be maintained and should be safeguarded effectively. I understand that parents around the country want, of course, to have even more say in what happens, but consider that church schools, in particular, have something significant to offer in relation not only to academic performance and ethos but future guarantees of religious literacy in the way in which our country is served.

One school deeply embedded in its community is the Saint Mary's Church of England primary school in Moss Side in Manchester. This school was named primary school of the year in 2014, having previously been towards the bottom of the north-west league of schools. It is now in the top 2% of schools in progress in reading and 7% in maths. The judges said:

"This is a school with a determined attitude that not only achieves wonderful results for its pupils but also challenges stereotypes about its catchment and local area,"

In the service of religious literacy, we also have a school, St Luke's primary school in Bury, where I am pleased to say that the head teacher is Jewish and the majority of the children are Muslim. Another school, St Chrysostom's in Manchester, has an intake of about 40% Muslim students. This is to demonstrate that the Church of England is engaged in education because parishes and generations of citizens have provided land, buildings and teachers to ensure that Christian values could be shared with future generations and to give poor, disadvantaged children with no previous access to education the chance to receive that wonderful gift as a matter of right.

Church of England schools are deeply embedded in their local community, whether it is affluent or deprived. Schools such as Northern Saints in Sunderland and St Peter's primary school in Wallsend have 49% of their students on free school meals. Both schools are doing excellent work to ensure that their children develop academically and personally. Stretton Church of England Academy, sponsored and managed by the Diocese of Coventry multi-academy trust, went from special measures to outstanding in less than three years. In the most recent Ofsted report, it was written:

"Disadvantaged pupils, disabled pupils and those who have special educational needs are making the same outstanding progress as that of their classmates".

Our own diocesan multi-academy trust in Ely has outstanding rural schools such as St Martin at Shouldham, inclusive of a great cross-section of the community. The parents there are deeply engaged with the governors and the students themselves, proud of the school's commitment to sustainable development and the preparation of the pupils to be responsible custodians of creation.

It is schools such as those which I have mentioned that are the norm for Church of England provision. That commitment to serving the common good and providing excellent education for all is the driving force of the Church of England's involvement in education, and it is this ethos and vision that we, with our parents, seek to protect.

As I said, I have withdrawn my amendment on the safeguarding of the ethos of Church of England schools because the Minister has been helpful in offering us assurances that it will be protected, and because I am hopeful that amendments to come, including Amendment 20, will offer parents some confidence that in helping to improve failing or coasting schools they will not lose the values and ethos that they want from a school. The Church of England is keen that any change must always be for the benefit of the children and that it should happen in a turnaround fashion, as swiftly as possible. In support of that, I would still be grateful if the Minister could expand on the safeguards that exist to ensure that that much-valued ethos is secured, and if he will commit to ensuring that the Secretary of State will work with dioceses to ensure that those safeguards are enforced.

Lord Harris of Peckham (Con): My Lords, I have some experience of these meetings with parents. I should like to talk about three primary schools: Roke of Croydon, a school which took us 18 months to get approval for, was failing and letting children down. All of you will have heard about the Tottenham school, which took us two years to get approval for, and Carshalton. They were all failing, and they all took more than two years to get approval.

I went at least twice to all those schools, and we had six meetings. A small group of parents complains. The governors are worried about their jobs and whether they can stay on. Of course, some teachers have to worry, and we meet all the teachers before we have the meetings with the public. At the second meeting, the same thing happens: eight or 10 of the parents complain about it.

I would like to say a few words about Roke at Purley. I could pick any of the three, but time is short tonight, and I want to talk about that school. It was failing for three and a half years. We have now had that school for two years and one term. In the first two years, we moved exam pass rates up from 42% to 94%. In those two years, the school has become outstanding. What is more important is that parents now want their children to go to that school. The 10 or 12 parents who complained were stopping that happening. Last year's intake was 45. Last September, we had 550 applicants for 60 places. The parents want their children to go to the schools, and we want them to be successful. That is true of many of our schools. We take over failing schools. All but one of our schools was failing, apart from five free schools. We know that we can turn these schools around in under two years, but we need help to get to them more quickly—to make sure that we get hold of them in six months and put a governing body in as quickly as possible and make these schools successful and the children motivated.

I am going to keep my speech short tonight, but I want to say one thing. We talk about sport. We won five national championships last year, with all our schools, and last weekend Louisa Johnson, who goes to one of our schools, won "X Factor". We have singing and we make sure that our children are motivated and that parents want them to go to our schools. At Crystal Palace, there were 3,200 applicants for 180 places, and there are many more like that. We have got to get more successful schools and get schools that are failing to become academies as quickly as possible, and we have to make to make sure that every child in this country gets a good education.

6 pm

Lord Nash: I shall speak to the amendments to Clauses 7 and 8, which seek to undermine the core intentions of the Bill. The Bill is focused on delivering a manifesto pledge, which is an essential part of the Government's commitment to ensuring that every child receives an excellent education that sets them up to succeed in modern Britain. That manifesto commitment was that we would ensure that any failing maintained school becomes a sponsored academy, to completely transform that school and its educational performance, as my noble friend Lord Harris has just outlined so eloquently and passionately. I pay tribute to the great work that he does in this area. That is why Clause 7 would place a duty on the Secretary of State to make an academy order in respect of any maintained school that Ofsted has judged to be inadequate. That duty means that there will be no question and no debate about this, which is why Clause 8 removes the requirement to consult on whether such a school should become a sponsored academy. It would be meaningless to consult when our manifesto was absolutely clear that failing maintained schools would become academies. That mandate means there is no question about what will happen, and no decision being made. It does not make sense therefore to consult on whether schools should or should not convert.

Amendment 15C fundamentally undermines our manifesto commitment to turn every failing maintained school into a sponsored academy, and we consider this amendment to be a breach of the Salisbury convention. As I have set out, I cannot accept the reintroduction of a statutory consultation process on whether a school should convert—a question that makes no sense in failing schools, when we have been so clear. The Bill puts children first, not the vested interests of adults who would seek to delay this action. I am grateful to the noble Baroness, Lady Howarth, for her strong and brave words in that regard. The noble Baroness, Lady Morris, referred to a situation that was not a pretty sight some 30 years ago, and I assure her that, sadly, there have been plenty of not a pretty sights much more recently. My noble friend Lord True referred to some, as did my noble friend Lord Harris.

The noble Baroness also talked about the opportunity for representation when a school becomes rebrokered as a sponsor. This is a completely different situation. I attempted to explain to the noble Baroness, Lady Hughes, that that is because of how funding agreements work, and we are trying to change funding agreements as little as possible, because no Government want to interfere with contracts entered into willingly between two parties any more than they have to.

The noble Baroness, Lady Massey, cross-referred the situation to the coasting schools situation, whereby a school may be able to improve on its own, and said that it was relevant to thinking again about whether one should make an academy order in relation to an inadequate school. This is a completely different situation. I have been very clear that the default position for a coasting school is not to become an academy, because the school may very well improve, as I am sure many will be able to, on their own or with limited help. But here we are talking about a school that is demonstrably failing and unable to sort itself out on its own. As I say, it is a quite different situation.

However, our position absolutely does not equate to a belief that parents should not have a right to know, or be involved in, changes that affect their child's school. This is the matter that Amendment 17 is raising. My government Amendment 20 already proposes to require parents to be informed. When a school is required to become a sponsored academy, the sponsor would be under a duty to communicate to parents about their plans for improving the school. This would have to take place before the school converted into a sponsored academy. That amendment therefore already provides robust assurances to parents that they will be kept informed. However, going further and requiring parents to be engaged through formal consultation is just not appropriate. Consultation is overly formal and inflexible. Formal consultations can unintentionally raise the temperature of the debate, rather like when one gets lawyers involved in a divorce settlement, and too often can be used to create delays to the process.

Amendment 16A would prescribe a list of various additional parties who must be included in the consultation exercise. There are already provisions in legislation that will ensure these parties are informed about changes when a school is required to become a sponsored academy. Our proposed Clause 10 is already explicit that the governing body and local authority should work with the named sponsor. The governing body

[LORD NASH]
will include representation from parents, staff, the head teacher and the local authority, so those parties will all already be kept informed via that route. The local authority will be further, intimately involved in the detail of the transfer of the school to academy status. The existing TUPE process already ensures that, as a minimum, staff at the school who will be affected by the transfer of the school to the academy trust will always be notified about the transfer by their employer or the academy trust. Where the academy trust proposes any changes that affect the employees, there must be consultation about those. This means that there is already a legal obligation for staff to receive information about the academy trust and be consulted on any proposed changes to terms and conditions, prior to any academy conversion taking place, comparable to what my amendment now proposes to introduce for parents.

The noble Lord, Lord Storey, asked whether regional schools commissioners would write to parents. We do not want to be that prescriptive. In many cases, it may well be best for the governing body to write to parents to invite them to come to a meeting with a sponsor because parents may be much more likely to listen to the governing body. I am very happy to discuss the precise contents of the *Schools Causing Concern* guidance with the noble Lord in that regard, and to discuss why it may not be appropriate to be too prescriptive.

I am grateful to the right reverend Prelate the Bishop of Ely for speaking in favour of my amendment on communication to parents, and I pay tribute to the great work that he does in Ely and across the country in education. Faith schools have an excellent track record on community cohesion. I attended only last week the Church of England's Living Well Together conference, which brought together students, teachers, faith leaders and others to share ideas about how we live well together and promote peaceful coexistence. I was very impressed by what the Church of England is doing to promote these discussions within schools, and I would very much look to the church's view on these matters and the appropriateness of our amendment on communicating with parents. I also take this opportunity to reiterate my assurances on how we will ensure the religious character of a faith school will be protected when any intervention is unnecessary, and I shall give more detail on that later on.

I cannot allow a formal consultation exercise to be introduced that requires governing bodies and local authorities to be given a say in whether a school causing concern should become a sponsored academy. We are talking about the same governing body and local authority that, as my noble friend Lord True remarked, has already allowed the school to fail, and not taken the necessary action to halt its decline at an earlier stage. Amendment 16A takes us back to a position that is more inflexible than the current process, and I hope all Peers will accept that that is a retrograde step and a step towards delay and inaction, which would undermine the fundamental principles behind the Bill.

Let us be clear: Amendment 15C would drive a coach and horses through the core purpose of the Bill, which is to turn failing schools into academies. That was a manifesto commitment, and therefore not only would the amendment fundamentally undermine the Bill but we consider that it would be a breach of the Salisbury convention, as I said earlier. Further, we do not consider Amendment 16A to be consequential to Amendment 15C. However, I have already shown that we are prepared to listen to the concerns raised about ensuring that parents are informed about what changes are being made to improve their child's school, and that is why I have tabled government Amendment 20, to that effect. I hope noble Lords will agree that I have listened and achieved the right balance between responding to Peers' valid concerns about parents having a right to know what is going on in their child's school and not undermining the Bill's core purpose, which is to ensure that there is no scope for delay in transforming every failing school. I hope noble Lords will recognise that the Bill is delivering a manifesto commitment. I therefore urge the noble Lord to withdraw his amendment.

Lord Watson of Invergowrie: My Lords, this has been a very interesting debate, with many speakers and many opinions—which can only be a healthy thing. I will be as quick as I can in picking up just one or two of the major points. My noble friend Lady Morris made the point that you need to make a very strong case for excluding parents in this situation, and that case has not been made.

I say to the noble Lord, Lord True, that the consultation is not detailed. The amendment does not state exactly what it should include. The terms, including the time allowed, will be for the Secretary of State to set out in regulations. She will be obliged to take into account only the views expressed in that consultation.

The noble Baroness, Lady Howarth of Breckland, made an important point, and I think that I owe her and other noble Lords an apology because I clearly did not make it evident in my remarks when moving the amendment that the alternative to academy status is not to do nothing and just carry on as before. That never was the case, and I very much hope it never would be. I would certainly never advocate it, but there are alternatives. Academy status is not the only alternative. For instance, the local authority has a role, a new head teacher can be brought in—which has been successful on other such occasions—and new governors can be appointed. Another successful school in the locality could take the school under its wing—again, there have been several examples of that having been done successfully, short of academisation. So the idea that it is one or the other is simply not true, and I am not for one moment advocating no action.

I think that parents at an underperforming school would be likely to want change—perhaps even to academy status. Who knows?

Lord Nash: The approach to trying to improve schools which the noble Lord has just referred to has been tried for years. Bringing in a supportive school from nearby to get the school better and then move off is not a permanent solution. We have seen this for many years in some of the schools to which that my noble friend Lord Harris referred. It is a temporary solution, a quick fix, and it does not work. Here, we are talking about a permanent solution under a sponsored academy arrangement.

Lord Watson of Invergowrie: That is the sort of doom and gloom we have come to associate with the Minister. I will write to him with examples of schools which have been successful in the longer term, when I get the opportunity. I was suggesting that parents at underperforming schools are in many cases likely to want changes, but you do not know whether they want changes until you ask them.

As a parent of a child at a maintained school, I would certainly want a say if that school were being forced to become an academy, but whether that was because it received an inadequate Ofsted judgment or because it was deemed to be coasting, I would take some responsibility. If it had been in those categories for two years and I had not known about it and had not banged on the head teacher's door to say, "What are you doing to do about it?", I would be responsible as well. So parents have responsibilities—but, equally, they have rights, and these rights should not be denied.

The noble Lord, Lord Sutherland, talked about a black and white situation. That is what Amendment 16A seeks to avoid by introducing shades of grey where improvements can be made. The noble Baroness, Lady Pinnock, suggested that the consultation did not need to be a plebiscite. That, too, is implicit in Amendment 16A, and it is not what is being suggested.

I welcome the fact that the schools that the noble Lord, Lord Harris, mentioned have been turned round, and I congratulate the trust on its achievements, but he might have mentioned that not all of his academies have enjoyed that success. On consultation, just because some parents in some schools will object is not a reason for no parents to have a say in any school.

Lord Harris of Peckham: Perhaps I may say that after two years, in every school we have taken over the lowest grade we have had is "good". They were failing schools, and I consider that getting "good" in under two years and having 80% of our secondary schools "outstanding" already is a great result. Sir Dan Moynihan and our teachers have done a great job, and I am really proud of them.

Lord Watson of Invergowrie: The noble Lord is entitled to be, and I was not denigrating him. I was merely saying that not all schools are of the same standard, which is to be expected.

I will not go into the manifesto issue. I am surprised that the Minister has raised it again. We dealt with it in Committee when I quoted the Conservative manifesto to him. It is very vague—to be kind to it—on this issue, and to mention the Salisbury convention just bewilders me. I return to the point that the noble Lord did not acknowledge that the Secretary of State would still retain the final word if consultation was introduced. I made that point earlier. The Minister does not seem to have grasped it, but I hope he will. He goes on about informing parents, not consulting them. There is such a difference between being informed, which is basically being told what is going to happen, and being consulted, which is being asked what is going to happen. They are well apart.

I am not going to repeat any further arguments. I believe that the right to consultation is a basic democratic right that every parent should expect. If the Secretary of State was forced by the wording of Clause 7 to make an academy order, consultation, even if it were permitted, would be meaningless. For that reason, Amendment 15C is necessary to allow the Secretary of State the necessary flexibility—and for that reason, I wish to test the opinion of the House.

6.15 pm

Division on Amendment 15C

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The Deputy Speaker (Baroness Stedman-Scott): There being an equality of votes, in accordance with Standing Order 56, which provides that no proposal to amend a Bill in the form in which it is before the House shall be agreed to unless there is a majority in favour of such amendment, I declare the amendment disagreed to.

Amendment 15C disagreed.

6.31 pm

Amendment 15D

Moved by ***Lord Storey***

15D: Clause 7, page 6, line 8, at end insert—

"( ) In determining whether to make an Academy order in respect of a maintained school in England, the Secretary of State must consider the availability of a suitable sponsor with a value added measure above the national average.

( ) If no suitable sponsor is available, the Secretary of State must appoint as a sponsor a willing council-maintained school or local authority with a value added measure above the national average."

Lord Storey: I will speak also to Amendment 25. I am concerned that the whole tenor of this discussion has almost been, if I may characterise it in this way, along the lines of maintained schools against academies. As we know, there are some fantastic academies; we heard from the noble Lord, Lord Harris, about his schools, which I know to be highly successful. However, I am sure that he will agree with me that just as there are successful academies, there are also some failing academies, which over the years have caused a number of raised eyebrows and concerns. Equally, there are some very good maintained schools and some maintained schools which need sorting out. Whether that is done through an academy route or other means, it needs to happen.

I will first deal briefly with Amendment 25, which is about the inspection of academy chains. We know from media that Michael Wilshaw, our Chief Inspector of Schools, was very keen that the head offices of academy chains were inspected. Why? It is because academy chains deal not just with individual schools but with finance and governance, and all those important issues. Just as we would inspect local authorities that provide services and finance for schools, the same should surely be true of academy chains.

We have seen examples of academy chains where, perhaps because we have not had our finger on the pulse of the financial situation and the governance of those academy chains, we have seen all sorts of concerns. I was going to go through them all, but I have decided to cut short what I am saying. I understand that we can inspect individual schools in batches in academy chains but I will be interested to hear from the Minister in his reply how we can be assured that the issues of finance and other governance matters are dealt with correctly.

Amendment 15D, again, follows the discussion on the previous amendments. Over the next 12 months or two years, thousands of schools will potentially need to find academy sponsors because they are failing, or are coasting and becoming failing, or because academies themselves fail and have to find other new academy sponsors. That will put a tremendous pressure on the system. In this amendment we are saying that if there is a suitable maintained school which has value added above the national average, why not use that school and provide its expertise? It is clear and simple. If we are about ensuring, as we heard in the previous debates, that the pupil gets the best possible schooling and teaching, and if an academy sponsor is not available, why not use a council-maintained school?

Baroness Morris of Yardley: My Lords, I will speak on a specific issue to follow up something I raised in Committee and to make reference to a note I received from the Minister's office this afternoon, which I wanted to put on the record.

On this amendment, considering the difficulty there sometimes is in finding sponsors, we raised in Committee that this is a problem with a number of sponsors and the length of time it has taken in some instances to match a school to a sponsor. The Minister kindly responded to my point in Committee when I asked what the target was for doing the match. He said that there was a 12-week turnover and that 48 schools had not met that 12-week target. That is very reasonable. To get a sponsor matched with a school within 12 weeks is not unreasonable, and I would not complain.

I wrote to the Minister's office about a month ago asking for a breakdown of how long the schools had been waiting that were in the 48 that had exceeded the time limit. I got a message by email only at the start of this debate. To tell noble Lords the truth, I am quite prepared to sit down and be told that I have read it wrongly, because I find the statistics rather worrying. If that is the case, I apologise in advance and will make sure that the correction is on the record. Of the 48 schools that were just inadequate, which exceeded the 12-week brokerage time, 16 took six to 12 months, 19 took 12 to 18 months, 12 took 18 to 24 months, and one took over 24 months. Therefore the department took over two years to find a suitable sponsor for one school which had been judged inadequate. A quick add-up shows that 32 took over one year. We have heard all about "A child shall not stay in a school that's failing them for one day longer than necessary", but who is responsible for that? Who is responsible for those children in that one school where it took the department over two years to find a sponsor? Who is responsible for the 32 that took over 12 months to find a sponsor? I am making a political point, but I am worried about the path we are going along, which has this as the only route and only solution for inadequate

[Baroness Morris of Yardley]
schools. Now we will add to it a whole lot more coasting schools and thereby increase the demand for sponsors, and the department seems to be failing miserably in delivering the sponsors in sufficient time. That leads me to conclude as regards this amendment that perhaps we need to look at alternative ways of finding sponsors and support if we go ahead.

Can the Minister ask his officials to convert the email to me into a letter to all Members of the Committee and place a copy in the House so that it can be seen alongside other correspondence which has been part of the consideration of the Bill?

Baroness Perry of Southwark (Con): Will the noble Baroness accept that the appointment of the regional schools commissioners has very much changed the landscape? The regional schools commissioners, who will be responsible for finding suitable sponsors, will know their patch, so to speak; they will know the sponsors that are available in the area and will be much quicker. There will not be the long delay there was in a very hard-pressed and overstretched central department in the Department for Education.

Very briefly, on Amendment 25, I am not sure exactly how Ofsted could inspect a sponsor. A sponsor is a business, with its finance, administration and human resources. That is not Ofsted's business. Ofsted inspects education, not what a sponsor does, so I find that puzzling in the extreme.

Baroness Morris of Yardley: Those figures are from November of this year, and the regional schools commissioners had already been in place. If demand is increased, the regional schools commissioners will be exceptionally overworked, and I am not as optimistic as the noble Baroness that they will solve the problem.

Lord Hunt of Kings Heath: My Lords, surely the point is that the RSCs still cover a huge area. When we debated this matter in Grand Committee, we were told by the noble Baroness, Lady Evans, that there were 778 approved sponsors and about 20% were waiting to be matched with schools, but we were not told about the long delays. In our earlier debate we were told that a one-day delay would have a crucial impact on the lives of children, and I understood that argument. However, it appears that the great academisation process in itself induces months of delay in certain places and for certain schools.

I would be glad if the Minister would take away and consider the amendment between now and Third Reading. All it is saying is that there may be some circumstances where there is no suitable academy—and that is why it is taking so long—and a local authority or a maintained school might have a role to play. I would have thought that the Minister could give this a little consideration.

Lord Nash: My Lords, Amendments 15D and 25, tabled by the noble Lord, Lord Storey, and the noble Baroness, Lady Pinnock, both concern the identification of an academy sponsor to take responsibility for a maintained school that is eligible for intervention.

RSCs are already responsible for subjecting prospective sponsors and their trusts to thorough scrutiny—against robust, uniform criteria—of whether they have the expertise and capacity to bring about improvement in other schools and whether they are in the right place before they are approved to take on sponsored academies. These rigorous processes ensure that academy sponsors which RSCs can match with underperforming maintained schools have a strong track record in educational improvement and financial management, and that their trust has high-quality leadership and governance.

I appreciate the intention behind the noble Lord's amendments, which is to ensure that RSCs have a complete picture of the performance and capacity of sponsors in their region to inform the decisions they make about matching a sponsor to an underperforming maintained school. However, RSCs already take a wealth of data and intelligence into account when making those decisions. Value added measures are only one factor that an RSC will take into account when deciding on an appropriate sponsor for a failing school. They will also consider the school's ethos, the capacity of the sponsor and their geographical location. It would be absurd, for instance, to appoint a sponsor far away from the school just because it had a higher value added measure rather than another prospective sponsor which was more suitable geographically. Therefore, Amendment 15D, requiring the RSC to take account of value added performance and progress measures when identifying a sponsor for a failing maintained school, is restrictive and unnecessary.

The amendment also proposes that, where a sponsor of a high enough quality is not available, a failing school should be sponsored by a local authority-maintained school or, indeed, directly by a local authority. Proposing that local authorities or maintained schools should have a role in sponsoring academies completely undermines the point of our reforms. A core principle behind our academy programme is to free strong school leaders from unnecessary bureaucracy by ensuring a robust single line of accountability. If local authorities and maintained schools are able to sponsor, that just blurs this line of accountability, with it going back to local government as well as to the Secretary of State. That would be a very confusing picture for schools.

This Government's ambition is for every school to have the opportunity to become an academy and, over time, for the role of local authorities in running schools to reduce. As more schools become academies and many local authorities have few maintained schools left, as is already the case for many, I hope that we will see members of local authority teams who are skilled at school improvement spinning out to set up their own MATs. That is certainly a development which we would welcome and which I anticipate will happen before too long.

It is also critical that failing schools become part of a multi-academy trust structure—something that it is not possible for a maintained school to join. Multi-academy trusts are the most rigorous, permanent, accountable, unified and efficient way of bringing about school improvement. The MAT structure of school-to-school support offers substantial advantages, including being in charge of one's own destiny, substantial

career enhancement opportunities, better retention of staff, opportunities for subject-specific teaching in primaries, enhanced CPD and leadership opportunities, a common school improvement strategy, the ability to recruit much higher-calibre finance people and greater economies of scale. I am delighted that the NGA and ASCL have concluded that the best model for academy governance is the MAT structure. I could not agree more.

For all the reasons that I have set out, I hope that the noble Lord appreciates that my approach is not to stop good schools or strong people within local authorities sponsoring academies. In fact, I would actively encourage more schools to convert and talented education experts within local authorities to set up their own multi-academy trusts. However, the MAT model will simply not work unless all schools in the MAT are academies or unless lines of accountability are clear. I hope that the noble Lord now appreciates why this amendment simply cannot work and that he will be convinced that he should withdraw it.

6.45 pm

Turning to Amendment 25, I believe that noble Lords are using this amendment to probe the current arrangements for inspecting and assessing academy chains. Ofsted carries out focused inspections which involve inspecting a number of schools from one chain at any one time. Sir Michael Wilshaw, as chief inspector, agreed that this approach was "appropriate" when he appeared at a recent meeting of the Education Select Committee. It is obviously important that trusts are also held to account for their financial and governance performance. This role is carried out by the Education Funding Agency, which already conducts trust-level reviews against the robust requirements of the *Academies Financial Handbook*.

It is right that this is a separate role for the EFA, rather than suggesting that Ofsted should focus on reviewing the finances or central operating model of academy chains. It is important that we leave HMIs to their core role, where their strengths lie, which is in inspecting the quality of teaching and learning in schools. That, of course, should not mean that we do not strive to do more to make sure that, where appropriate, a more comprehensive, coherent picture of a trust is sought. We have already held discussions with Ofsted about the circumstances in which we may want to organise a parallel audit of a trust through a separate investigation by the EFA at the same time as Ofsted carries out a focused inspection of a group of schools. This has been very well received in a number of quarters. I therefore urge the noble Lord and the noble Baroness not to press their amendment.

Lord Storey: I thank the Minister for clarifying the situation in terms of the inspection of academy chains. In terms of Amendment 15D, it causes concern when we constantly hear the line about a single day in a failing school being a day too long for a child when we have also heard that if an academy sponsor cannot be found a pupil can wait for months and months, even if there is a nearby local maintained school which has the reputation and the results—

Lord Nash: I am grateful to the noble Lord for allowing me to intervene. I think that I can clarify the point and, at the same time, answer the point made by the noble Baroness, Lady Morris. I am sorry that I did not do so earlier. The answer that we gave—I will put it in writing to the noble Baroness and other noble Lords, and put a copy in the Library—concerned not how long it took to match a school to a sponsor but how long the school had been inadequate. I am happy to meet the noble Baroness to discuss this further but it is quite clear that the delay in these cases will not always have been because of the lack of a sponsor. There are lots of delays for other reasons—the exact kinds of issues that we debated on the previous amendment, and I am sorry that the noble Baroness did not raise the point then.

Lord Storey: So I say again that some pupils will be waiting for a considerable time in their failing school when there might be a nearby maintained school that has a tremendous reputation and tremendous results—but we are not prepared to engage it. Of course, that comes back to what this is really all about. This is not about providing the best educational opportunities; it is about what the Prime Minister said at the Conservative Party conference. His ambition is for every school to be an academy and for local authorities running schools to be a thing of the past. That is presumably why the Minister is not happy with the notion that, if there is a council-maintained school or local authority with a value-added measure above the national average, you could use them. He is not interested in that because that is not the political philosophy. I think that that is a great mistake and a great shame. It is about what is best for the child. Therefore, on this amendment, I would like to test the opinion of the House.

6.50 pm

Division on Amendment 15D

Contents 73; Not-Contents 209.

Amendment 15D disagreed.

Division No. 2

CONTENTS

Addington, L.
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Barker, B.
Beith, L.
Benjamin, B.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradshaw, L.
Bruce of Bennachie, L.
Burnett, L.
Chidgey, L.
Clancarty, E.
Clement-Jones, L.
Cotter, L.
Dholakia, L.
Doocey, B.
Falkner of Margravine, B.
Featherstone, B.
Garden of Frognal, B.
Glasgow, E.
Goddard of Stockport, L.
Hamwee, B.
Harris of Richmond, B.
Humphreys, B. [Teller]
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jolly, B.
Jones of Cheltenham, L.
Kramer, B.
Lester of Herne Hill, L.
Ludford, B.
Maclennan of Rogart, L.
Maddock, B.
Manzoor, B.
Marks of Henley-on-Thames, L.

Miller of Chilthorne Domer, B.
Newby, L. [Teller]
Oates, L.
Paddick, L.
Palmer of Childs Hill, L.
Pinnock, B.
Purvis of Tweed, L.
Randerson, B.
Razzall, L.
Redesdale, L.
Rennard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Scriven, L.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Shipley, L.
Shutt of Greetland, L.
Smith of Newnham, B.
Stephen, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Teverson, L.
Thomas of Gresford, L.
Thornhill, B.
Tope, L.
Tyler, L.
Tyler of Enfield, B.
Wallace of Saltaire, L.
Walmsley, B.
Williams of Baglan, L.
Willis of Knaresborough, L.

NOT CONTENTS

Aberdare, L.
Ahmad of Wimbledon, L.
Altmann, B.
Alton of Liverpool, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor, V.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Balfe, L.
Barker of Battle, L.
Bates, L.
Bell, L.
Berkeley of Knighton, L.
Berridge, B.
Bew, L.
Black of Brentwood, L.
Borwick, L.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Buscombe, B.
Byford, B.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chisholm of Owlpen, B.
Colwyn, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Craigavon, V.
Crathorne, L.
Crickhowell, L.
Cumberlege, B.
De Mauley, L.
Deben, L.
Denham, L.
Dobbs, L.
Dunlop, L.
Durham, Bp.
Dykes, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Ely, Bp.
Empey, L.
Erroll, E.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Falkland, V.
Fall, B.
Farmer, L.
Faulks, L.
Feldman of Elstree, L.
Fink, L.
Finkelstein, L.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Gold, L.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Greenway, L.
Griffiths of Fforestfach, L.
Hailsham, V.
Hamilton of Epsom, L.
Hannay of Chiswick, L.
Harris of Peckham, L.
Hayward, L.
Helic, B.
Henley, L.
Higgins, L.
Hodgson of Abinger, B.
Holmes of Richmond, L.
Home, E.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Keen of Elie, L.
Kerr of Kinlochard, L.
Kilclooney, L.
Kirkham, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Listowel, E.
Liverpool, E.
Livingston of Parkhead, L.
Lothian, M.
Lupton, L.
Lyell, L.
MacGregor of Pulham Market, L.
McGregor-Smith, B.
McIntosh of Pickering, B.
Mackay of Clashfern, L.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Marland, L.
Marlesford, L.
Mawhinney, L.
Mobarik, B.
Mone, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
O'Neill of Gatley, L.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Palumbo, L.
Patel, L.
Patten, L.
Perry of Southwark, B.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Redfern, B.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
St John of Bletso, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Spicer, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Sutherland of Houndwood, L.
Swinfen, L.
Tanlaw, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Walpole, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Whitby, L.
Williams of Trafford, B.
Wilson of Tillyorn, L.
Wolfson of Aspley Guise, L.
Young of Cookham, L.
Younger of Leckie, V.

Amendment 16 not moved.

Clause 8: Consultation about conversion

Amendment 16A

Moved by ***Lord Watson of Invergowrie***

16A: Clause 8, page 6, line 25, at end insert—

"5ZA Consultation about conversion: schools issued with an Academy order

(1) If a school is issued with an Academy order under section 4(A1) or (1)(b), consultation must be held on whether conversion should take place.

(2) The consultation exercise must include—

(a) parents of children attending the school;

(b) teachers and staff at the school;

(c) governors at the school;

(d) the relevant local authority;

(e) such other persons as the Secretary of State considers appropriate.

(3) The terms of such consultation, including the minimum length of time that must be allowed, shall be prescribed by the Secretary of State in regulations.

(4) After the close of the consultation, the Secretary of State must take into account the outcome of the consultation when deciding whether conversion is appropriate for the school."

Lord Watson of Invergowrie: I beg to test the opinion of the House.

7.02 pm

Division on Amendment 16A

Contents 191; Not-Contents 205.

Amendment 16A disagreed.

Division No. 3

CONTENTS

Addington, L.
Ahmed, L.
Alderdice, L.
Anderson of Swansea, L.
Bach, L.
Bakewell, B.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L. [Teller]
Beecham, L.
Beith, L.
Benjamin, B.
Berkeley, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradley, L.
Bradshaw, L.
Brennan, L.
Brooke of Alverthorpe, L.
Brookman, L.
Bruce of Bennachie, L.
Burnett, L.
Campbell-Savours, L.
Chidgey, L.
Clancarty, E.
Clark of Windermere, L.
Clement-Jones, L.
Clinton-Davis, L.
Corston, B.
Cotter, L.
Coussins, B.
Crawley, B.
Davies of Oldham, L.
Dholakia, L.
Donaghy, B.
Doocey, B.
Drake, B.
Dubs, L.
Erroll, E.
Farrington of Ribbleton, B.
Featherstone, B.
Foulkes of Cumnock, L.
Gale, B.
Garden of Frognal, B.
Glasgow, E.
Goddard of Stockport, L.
Golding, B.
Gordon of Strathblane, L.
Gould of Potternewton, B.
Grantchester, L.
Griffiths of Burry Port, L.
Grocott, L.
Hain, L.
Hamwee, B.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Harrison, L.
Haughey, L.
Haworth, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hilton of Eggardon, B.
Hollick, L.
Howarth of Newport, L.
Howells of St Davids, B.
Howie of Troon, L.
Hoyle, L.
Hughes of Woodside, L.
Hunt of Kings Heath, L.
Hussein-Ece, B.
Irvine of Lairg, L.
Janke, B.
Jolly, B.
Jones, L.
Jones of Whitchurch, B.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
King of Bow, B.
Kinnock, L.
Kinnock of Holyhead, B.
Kirkhill, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Lennie, L.
Lester of Herne Hill, L.
Liddle, L.
Lister of Burtersett, B.
Livermore, L.
Ludford, B.
McAvoy, L.
McDonagh, B.
Macdonald of Tradeston, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
Maddock, B.
Mandelson, L.
Manzoor, B.
Marks of Henley-on-Thames, L.
Maxton, L.
Mendelsohn, L.
Miller of Chilthorne Domer, B.
Monks, L.
Morgan, L.
Morgan of Ely, B.
Morris of Aberavon, L.
Morris of Handsworth, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Newby, L.
Nye, B.
Oates, L.
O'Neill of Clackmannan, L.
Paddick, L.
Palmer of Childs Hill, L.
Patel, L.
Patel of Blackburn, L.
Pinnock, B.
Pitkeathley, B.
Prescott, L.
Primarolo, B.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rosser, L.
Royall of Blaisdon, B.
Sawyer, L.
Scotland of Asthal, B.
Scriven, L.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
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Soley, L.
Steel of Aikwood, L.
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Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Symons of Vernham Dean, B.
Taylor of Blackburn, L.
Taylor of Bolton, B.
Teverson, L.
Thomas of Gresford, L.
Thornhill, B.
Thornton, B.
Tope, L.
Touhig, L.
Tunnicliffe, L. [Teller]
Tyler, L.
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Wallace of Saltaire, L.
Walmsley, B.
Walpole, L.
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Willis of Knaresborough, L.
Wills, L.
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Young of Old Scone, B.

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Aberdare, L.
Ahmad of Wimbledon, L.
Altmann, B.
Alton of Liverpool, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor, V.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Balfe, L.
Barker of Battle, L.
Bates, L.
Berkeley of Knighton, L.
Berridge, B.
Black of Brentwood, L.
Blencathra, L.
Borwick, L.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
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Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chester, Bp.
Chisholm of Owlpen, B.
Colwyn, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Craigavon, V.
Crathorne, L.
Crickhowell, L.
Cumberlege, B.
De Mauley, L.
Deben, L.
Denham, L.
Dobbs, L.
Dunlop, L.
Durham, Bp.
Dykes, L.
Eaton, B.
Eccles, V.
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Elton, L.
Ely, Bp.
Empey, L.
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Fairfax of Cameron, L.
Falkland, V.
Fall, B.

Farmer, L.
Faulks, L.
Feldman of Elstree, L.
Fink, L.
Finkelstein, L.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Gold, L.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Greenway, L.
Griffiths of Fforestfach, L.
Hailsham, V.
Hamilton of Epsom, L.
Harris of Peckham, L.
Hayward, L.
Helic, B.
Henley, L.
Higgins, L.
Hodgson of Abinger, B.
Holmes of Richmond, L.
Home, E.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Keen of Elie, L.
Kilclooney, L.
Kirkham, L.
Knight of Collingtree, B.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
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Liverpool, E.
Livingston of Parkhead, L.
Lothian, M.
Lupton, L.
Lyell, L.
MacGregor of Pulham Market, L.
McGregor-Smith, B.
McIntosh of Pickering, B.
Mackay of Clashfern, L.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Marland, L.
Marlesford, L.
Mawhinney, L.
Mobarik, B.
Mone, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
O'Neill of Gatley, L.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Palumbo, L.
Patten, L.
Perry of Southwark, B.
Pidding, B.
Popat, L.
Porter of Spalding, L.
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Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Russell of Liverpool, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Spicer, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Sutherland of Houndwood, L.
Tanlaw, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Whitby, L.
Williams of Trafford, B.
Wilson of Tillyorn, L.
Wolfson of Aspley Guise, L.
Young of Cookham, L.
Younger of Leckie, V.

Amendment 17 not moved.

Daesh in Syria and Iraq

Statement

7.15 pm

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, with the leave of the House, I shall now repeat a Statement made in another place earlier today by my right honourable friend the Foreign Secretary. The Statement is as follows.

"With permission, Mr Speaker, I wish to make a Statement to update the House on the campaign against Daesh in Iraq and Syria.

Two weeks ago, this House voted to support the extension of UK air strikes against Daesh in Iraq into Daesh's heartland in Syria. As the Prime Minister and I set out during the debate, this extension of military strikes is just one part of our strategy to bring stability to Syria and Iraq by defeating Daesh, working towards a political transition in Syria and supporting humanitarian efforts in the region. It has been welcomed by our international partners, including the United States and France, and other partners in Europe and the Gulf. During the debate, we committed to update the House quarterly on the progress of our strategy. However, given the high level of interest among honourable Members expressed during the debate and elsewhere, I decided to offer an early, first update before the House rises this week.

I turn first to the military strand of our strategy. The first RAF air strikes against Daesh in Syria, conducted just a few hours after the vote in this House, successfully targeted oil facilities in eastern Syria, which provide an important source of illicit income to Daesh. Since then, RAF aircraft have conducted further strikes against Daesh in Syria, targeting wellheads in the extensive Omar oilfield; as well as conducting reconnaissance and surveillance missions. To enable this tempo of activity, a further two RAF Tornados and six Typhoons have been deployed to RAF Akrotiri in Cyprus, bringing the total number of manned aircraft conducting strikes from Akrotiri to 16, in addition to our RAF Reaper unmanned aircraft also deployed in the region.

During the debate on 2 December, a number of honourable and right honourable Members expressed concern about the possibility of civilian casualties resulting from British military action. Of course, there is risk involved in any strike, but I am pleased to inform the House that it continues to be the case that we have had no reports of civilian casualties as a result of UK air strikes in either Iraq or Syria. I pay tribute to the precision and professionalism of our RAF pilots in conducting these operations.

In Iraq, government forces continue to make progress against Daesh. Since the coalition launched operations in Iraq in autumn 2014, the strategically significant towns of Tikrit, Baiji and Sinjar have all been retaken. Ramadi is now surrounded by Iraqi forces supported by US mentors and its Daesh occupiers are being steadily squeezed, including by RAF close air support. Importantly, work is well advanced in building a Sunni local police force, supported by local tribal forces, to

hold and police the city once it is liberated. In total, RAF Tornados and Reaper drones have flown more than 1,600 missions over Iraq, conducting more than 400 strikes.

In Syria, the situation is more complicated. The majority of Russian air strikes continue to target Syrian opposition forces, rather than Daesh. In the last two weeks, the Russians have attacked opposition forces between Homs and Aleppo and in the far north of Syria, allowing Daesh to seek advantage on the ground. With our coalition partners, including the United States, we will continue to urge Russia to focus its fire solely on Daesh. It is unacceptable that Russian action is weakening the opposition and thus giving advantage to Daesh forces.

I turn now to the campaign to disrupt Daesh's finances and stop the flow of foreign fighters. As well as targeting oil assets, which experts estimate account for some 40% of Daesh's revenues, my right honourable friend the Chancellor will tomorrow attend the first ever meeting of finance Ministers at the Security Council in New York to agree a further strengthening of the UN's sanctions regime against Daesh. It is also crucial, of course, that countries strictly enforce sanctions with investigations and prosecutions, and to ensure that we have our own house in order, we have begun the review ordered by my right honourable friend the Prime Minister into the funding of Islamist extremist activity in the UK. It will report to the Prime Minister in the spring.

We continue to work with Turkey and others to build an increasingly sophisticated network to interdict foreign fighters seeking to enter Syria. Alongside money, Daesh relies heavily on propaganda to attract financial support and new recruits, and so we have stepped up our effort to counter its messaging. The UK has created the Coalition Strategy Communications Cell, which is working to combat and undermine the Daesh 'brand', ensuring that no communications space currently exploited by Daesh is left uncontested. The coalition cell will generate a full range of communications at a pace and scale necessary to highlight Daesh's cruel and inhumane treatment of individuals under its control, its failures on the battlefield and its perversion of Islam. The cell has already received staffing and financial contributions from coalition partners, while others have expressed strong support and an intention to contribute.

At the heart of our comprehensive strategy is a recognition that to defeat Daesh in its heartland, we need a political track to bring an end to the civil war and to have in place a transitional Government in Syria. The world can then once again support a legitimate Syrian Government so that the Syrian army, Syrian opposition forces and Kurdish forces can concentrate their efforts against Daesh, liberating their own country from this evil organisation. Diplomatic efforts to deliver a negotiated end to the civil war and a transitional government are continuing apace. The International Syria Support Group, bringing together all the major international players, has agreed the need for a ceasefire, humanitarian access, and an end to attacks on civilians. In its communiqué of 14 November, the ISSG set out its goals: a transitional Government within six months, a new constitution, and new internationally supervised elections within 18 months. A further meeting of the support group is expected to take place in New York this coming Friday, which I shall attend.

In preparation for that meeting, on Monday I met the Foreign Ministers of like-minded members of the ISSG in Paris, including the US, France, Germany, Saudi Arabia and Turkey. Separately, in Riyadh last week, Saudi Arabia brought together well over 100 representatives from a wide range of Syrian opposition groups to agree an opposition negotiating commission and a negotiating policy statement ahead of talks between the opposition and the regime, convened by the UN, which we hope will begin in January. The conference committed to Syria's territorial integrity, to the continuity of the Syrian state, and to negotiations under the framework of the Geneva communiqué. They also committed themselves to a,

'democratic mechanism through a pluralistic system, representing all spectrums of the Syrian people, men and women, without discrimination or exclusion on a religious, sectarian, or ethnic basis, and based on the principles of citizenship, human rights, transparency, and accountability, and the rule of law over everyone'.

I congratulate Saudi Arabia on this achievement and welcome the outcome. The UK will provide its full support to intra-Syrian negotiations.

In Iraq, we continue to support Prime Minister Haider al-Abadi to deliver the reform and reconciliation needed to unite all Iraq's communities in the fight against Daesh. I also welcome the recent announcement of the formation of an Islamic military coalition to fight terrorism, bringing together 34 Muslim countries to partner with the rest of the international community. I have discussed this initiative in detail with my Saudi counterpart, Foreign Minister Adel al-Jubeir. Its clear intention is to create a coalition which is flexible, contributing on a case-by-case basis, and defending moderate Islam from the forces of extremism.

Finally, I turn to the need for continued humanitarian support and post-conflict stabilisation in both Syria and Iraq. As the Prime Minister outlined to the House a fortnight ago, the end of the civil war in Syria and the defeat of Daesh in both Iraq and Syria will present the international community with an enormous and urgent stabilisation challenge. Building on our humanitarian support for the Syria crisis, to which we remain the second largest bilateral donor, we have committed a minimum of £1 billion to Syria's reconstruction in the long term. In February, the Prime Minister will host, along with Germany, Kuwait, Norway and the UN, an international conference here in London that will focus on meeting the UN 2016 appeal to support refugees from the civil war as well as longer-term financial commitments for Syria and its neighbours.

Since the House took the decision two weeks ago to extend our military effort into Syria, the Government have taken forward with our coalition partners a comprehensive strategy to degrade and ultimately to defeat Daesh. We are making steady progress in both Iraq and Syria. We are targeting its finances through military action and through action with our international partners. We are disrupting the flow of foreign fighters. We are fighting its ideology and propaganda. We are a leading player in the diplomatic effort to deliver a

[Baroness Anelay of St Johns]
political settlement to end the Syrian civil war, and we are preparing for the day after that settlement and the defeat of Daesh so that we can ensure the long-term future stability and security of Iraq and Syria. The fight against Daesh will not be won overnight, but however long it takes, it is in our vital national interest to defeat this terrorist organisation and the direct threat it poses to our security. Failure is not an option".

My Lords, I commend the Statement to the House.

7.27 pm

Lord Touhig (Lab): My Lords, I thank the Minister for repeating the Statement made earlier in the other place and I apologise for the absence of my noble friends Lady Morgan of Ely and Lord Collins of Highbury. Both are unable to be in the House this evening.

The scale of the humanitarian catastrophe stemming from the civil war in Syria is almost too great to comprehend. The death toll is well over 250,000. Millions of men, women and children will spend this Christmas living in tents in Lebanon and Turkey, across Europe in Greece and Serbia, and just 20 miles from our own shores in Calais. Even after all the brutality we have seen over the past four years, the situation continues to deteriorate. This week there were reports that ISIL will murder children who have Down's syndrome. My late wife was a Mencap volunteer who worked with Down's syndrome youngsters, so I am sickened by these reports. For too long the international community failed the people of Syria and we must now do everything we can to address the situation.

British military action is focused on ISIL's economic infrastructure, particularly oil. During the Syria debate, I urged the Government to target ISIL's wealth-creating, oil-exporting capability, and I am pleased that this was the first target of our air strikes. Can the Minister tell us what assessment has been made of the degree of success of our operations in destroying that oil-exporting capacity? Most welcome in the Statement is the report that there have been no civilian casualties. God knows, the people of Syria have suffered enough. But there will be civilians working and living in and around the oil facilities we are targeting. What steps are being taken before a strike to minimise civilian casualties, and then after a strike has occurred, to ensure that any possible civilian casualties can be investigated?

I shall return to the question of ISIL's wealth and its ability to fund its evil activities. In the Syria debate, I asked what steps we are taking to cut off the flow of money earned from investments worldwide which are controlled by ISIL. I note from the Statement that Finance Ministers are to meet in New York and that it will be attended by our Chancellor of the Exchequer. Will the Minister say whether we are doing anything here, bearing in mind that London is the world's premier financial centre?

Many noble Lords have expressed doubts about the Prime Minister's statement that there was a force 70,000-strong of moderates who would engage in the ground war against ISIL. What progress have the Government made in identifying and co-ordinating with such forces? More, will the Minister say whether we are undertaking operations to help alleviate the pressure on the Kurdish Peshmerga forces operating in Syria? We certainly share the Government's view that military action can only ever be part of a package of measures needed to defeat ISIL and end the Syrian civil war. Britain's overriding priority has to be supporting a diplomatic agreement which unites the elements opposed to ISIL within Syria and paves the way for the departure of Assad. The first step to this is an agreement between the Sunni factions opposed to both Assad and ISIL. I note the progress towards this achieved in Riyadh.

There has been a lot of speculation about these talks so will the Minister say how the groups were invited to attend these talks? Did Britain make representations to the Saudis as to who should be invited? In particular, were key Kurdish groups, such as the Syrian Democratic Forces and the Democratic Union Party, present at the talks? It has been said that the Salafist group, Ahrar al-Sham, pulled out of the talks and were opposed to any peace talks with Assad. However, it was later reported that it had signed the agreement. Can the noble Baroness shed any light on this? This group has an estimated 20,000 fighters. Did this form part of the 70,000 figure the Government previously said would be moderate forces opposed to Assad and ISIL?

The key test for the Riyadh agreement will be whether it facilitates meaningful peace talks and a ceasefire, as outlined at the second Vienna conference. Will the Minister confirm whether, following the Riyadh agreement, the Syrian opposition will have a common position and a single representative at these talks or whether there will be distinct, separate factions represented?

The original timetable was for a possible cessation of hostilities to coincide with the start of peace talks on 1 January. Do the Government still think that this is achievable? Was there a clear commitment to this timetable from the parties present at the Syria talks in Paris on Monday? Following the Paris talks, will the Minister confirm whether further talks of regional and international powers will take place in New York this week? If these talks clash with the EU summit, who will represent Britain?

With so many different parties to the Syrian civil war, maintaining a ceasefire will be extremely difficult and complex, which I think we all appreciate. But have the Government explored the possibility of a UN resolution reinforcing the outline agreement, including the ceasefire, agreed at the second Vienna conference? Can the Minister confirm whether Britain will seek a UN resolution to support any agreement reached between Syrian opposition forces and Assad?

Finally, many nations have responded to the Syrian refugee crisis. In Lebanon, nearly one in four of the population is a recent refugee from Syria. Jordan is hosting more than 1 million Syrian refugees. Around 340,000 refugees have been resettled in Germany. This week, we saw Canada welcoming the first of 35,000 refugees who will be resettled there by next October. On this side, we certainly welcome the news today that the 1,000 refugees the Prime Minister promised would be here by Christmas has been honoured. It is an

honour to the whole of Britain that that has happened. Taken together, this gives us hope that humankind will not pass on the other side of the street when people are suffering as much as they are in Syria.

We are approaching one of the most special and, for many, one of the most holy times of the year. Whether we have faith or not, as we prepare to share the Christmas joy, I want to pay tribute to the outstanding bravery and professionalism of the men and women of Britain's Armed Forces who have made the success of these early missions possible. When we are at home this Christmas, many perhaps with our families, I have no doubt that the British people will keep in their thoughts and prayers our fighting men and women and their families. They serve our country in dangerous and difficult circumstances. For this, they deserve our unflinching admiration and respect.

Lord Wallace of Saltaire (LD): My Lords, I thank the Government for coming back so early to report to Parliament and to encourage them to continue to do so both on the Floor and, since there are things that cannot be said on the Floor, off the Floor as far as possible on an all-party basis. It is very important to hold cross-party consensus together on what we are doing in this incredibly complicated situation. That includes carrying the country with us, including Britain's Muslim minority, which needs to be reassured that we are not taking part in any sort of western crusade against the Sunni and Muslim world but that we are part of a campaign with Middle Eastern partners against this perversion of Islam.

We are all concerned about this as a war across the Middle East. We have been concerned at those who wanted to switch from being preoccupied with Assad to being preoccupied with ISIS and allowing Assad to stay in place. From all the evidence we have, we know that the refugees fleeing to Europe are overwhelmingly fleeing Assad rather than ISIS. We cannot therefore merely move from one to the other. We are also aware that the Saudis are distracted by Yemen, in which a number of other Gulf states are also engaged. What is happening in Libya is increasingly worrying. Sinai is no longer under Egyptian Government control. The worsening situation in the occupied West Bank is a matter of concern which could worsen further and continues to act as a recruiting rationale for confused young men in all sorts of countries to join ISIS. We need a broad approach.

Therefore, I should like to ask how Her Majesty's Government are engaging in the very important diplomatic side, since we are never going to win this conflict except through diplomatic, multilateral agreement. Where are we post-Vienna? How actively are the Government engaged and with whom most closely in pursuing the tasks agreed at the Vienna conference? How actively are our Government engaged with the more difficult of our partners in this endeavour? The Russians, after all, appear to have been focusing their attacks in Syria on the Turkmen rather than on ISIS. We have to have the reluctant co-operation of Iran in any transition away from the Assad regime. It is necessary to insist that border control is extremely important to Turkey, while the Kurds have to be seen as an asset in the fight against Daesh/ISIL rather than a threat to Turkishness as such. Finally, in so many ways, the objectives of the Saudi Government do not coincide with ours.

It was splendid to hear the statement on what has been agreed in Riyadh on human rights and so on. I do not think most of that is intended to apply within Saudi Arabia. There are many things to do on the diplomatic front. I do not want to repeat the questions raised by the noble Lord, Lord Touhig, on the military side. We welcome the greater visibility of the Syrian Democratic Forces and a degree of cohesion among different factions, which appears now to offer a more effective counterweight to Daesh in north-eastern Syria. We were worried by the contradictory statements about Kurdish exclusion from the Riyadh talks and would welcome the Government clarifying how far Kurdish elements, which are now co-operating with Arab, Christian and other forces much more effectively than they were, are to be pulled in.

Finally, next summer we are likely to see if the civil war has no sign of reaching an ending and whether there will be a further surge of refugees towards Europe. The best way to keep refugees in the region is to offer them the hope that this war will come to an end. I would like to hear a little more from the Government on how far we are working with others to ensure that, while the conflict continues, those who are really struggling in underfunded refugee camps are fully supported.

Baroness Anelay of St Johns: My Lords, I thank both noble Lords for their thoughtful and compassionate tone in reflecting on those who are affected by the evils of Daesh and those who are seeking to defeat it. I join with their tribute to the Armed Forces.

I was asked whether I would give an assessment of our success in our operations, both to destroy oil capacity and more generally. Clearly, a careful analysis is taking place of the impact of combined air operations and how that affects Daesh's ability not only to produce oil but to transmit it. When one carries out air assaults it is important to disrupt the arterial network—the roads. I was in northern Iraq last month on the day that the assault on Sinjar was launched. The importance of that was not only to recover the town and give it back to its people but to provide a break in the supply lines. So it is not a simple matter of saying what disrupting oil production can do to reduce the overall supply of oil for sale, which Daesh then profits from; it is part and parcel of a wider picture.

I was rightly asked about civilians and the steps that the RAF and UK aircraft personnel take to avoid any civilian casualties. I can say, as I did when repeating the Statement last time—I beg the House's pardon; the Leader repeated the Statement—that we still do not have any reports of casualties that have occurred to civilians in either Syria or Iraq as a result of RAF air strikes. I appreciate some of the processes that go into the careful selection of targets and the avoidance of risk to civilians, but, as I mentioned in the Statement, there is always a risk. It is how one contains that risk. We hope that we remain in the position where there are no such reports, but when that happens there are processes in place, not only for reports by others but for self-reporting, too. It is a matter that we take most seriously.

[Baroness Anelay of St Johns]

I was also asked how we are taking steps here to prevent the funding of Daesh. My right honourable friend the Home Secretary has been working across government to ensure that the sanctions imposed on Daesh are properly effected here—as, indeed, has the Chancellor of the Exchequer at the Treasury—and that we trace those who may be involved in such activities. I know that noble Lords would not expect me to comment in any further detail on that.

I was also asked about the position of the Kurds in Syria who need help. The Kurds in Syria have indeed been fighting against Daesh, as well against the depredations of the Assad regime. First, on the question of military help, we are not supplying weapons to anybody on any side in Syria, but we have delivered more than 4 million articles of life-saving equipment, including communications, medical and logistics equipment, and we have provided equipment to protect against chemical weapons attacks, including 5,000 escape hoods, nerve agent pre-treatment tablets and chemical weapon detector paper. That is available for all those seeking to defeat Daesh with whom we seek to work. We cannot contact all of them, but where we do, that is the kind of assistance that we can give.

A wide range of people was brought together at the Riyadh conference, which was held between 8 and 10 December. I understand that the Syrian opposition agreed a representative negotiating team for the upcoming UN-brokered negotiations with the regime. The national coalition will play a leading role in the new team as a result of that. A wide group of people was invited. Some would fall into the category of those with whom we have contact on a regular basis; others would not. I think noble Lords will understand that I am not in a position to identify particular groups. I was asked to say whether they are part of the 70,000 persons who were described as those who would fight against Daesh. We have to be careful not to identify individual groups or people, for obvious reasons, but I can say that we estimate that there are around 70,000 non-extremist opposition fighters in Syria. The majority of them are linked to the Free Syrian Army.

In addition—to come to the Kurdish matter—some 20,000 Kurdish fighters are playing an important role in combating Daesh in Syria. Politically, over the last 18 months the major opposition armed groups have come together to affirm that they are prepared to negotiate a political settlement to the Syria conflict, based on the Geneva communiqué of 2012. That is a major advance. I know that it looks as if there are only small steps, but it has made a real change.

I was also asked whether the Syrian opposition would have a common position. As I just explained, they have said that they will be in the position to play a leading role in the talks as they go forward.

I was also asked about the timetable and whether it can be met. We hope that the timetable can be met so that the talks can begin in January. Lots of things in this world can intervene, but the important thing is that those who met together to give this commitment agreed on a structure—not necessarily a day-by-day timetable, but a structure—by which we could ultimately achieve the transition of power and preserve the institutions of Syria, so that we can learn from past events and not repeat them in Syria so that transition is practically possible.

I was also asked about UN resolutions and whether we would seek one regarding the agreement in Syria. I referred to that; my right honourable friend the Chancellor of the Exchequer will be in New York at the end of this week. I know that we will continue to work very closely with the UN, as we always do. Where it is appropriate for a resolution to be considered, our normal practice is that we would seek to do that—but we will have to see how those talks develop.

I was also asked who our real, like-minded friends are with whom we engage in this. I think that I gave a flavour of that in the Statement. My right honourable friend the Foreign Secretary mentioned that he met on Monday the United States, France, Germany, Saudi Arabia and Turkey. It is important that we continue to engage with them.

I was asked a practical point by the noble Lord, Lord Touhig, which was: if the talks are happening in New York at the end of this week, yet we also have the EU talks carrying on, how will the personnel be divided? I can assure him that it is normal practice that the Prime Minister attends the EU talks; the talks in New York are being attended by my right honourable friend the Chancellor of the Exchequer. Clearly, the Foreign Secretary is engaged continually in talks, either in person or on the telephone, with all the main actors in this. All of us want to ensure that those suffering the vile attacks by Daesh that have shocked the world should receive not only compassion but help. We continue to give major help in humanitarian aid to the region. That will continue beyond the defeat of Daesh. We are already committing to continuing our assistance.

7.49 pm

Lord Howell of Guildford (Con): Does my noble friend accept that I strongly share her welcome for the Islamic military coalition mentioned in the Statement? Will she assure us that we are going to give strong encouragement to that coalition? Does she see it as a possible source of the troops on the ground which eventually will, of course, be needed to penetrate the Daesh heartlands? The noble Lord, Lord Wallace, mentioned Libya in passing. Will my noble friend say a word about how the Government see the Libyan situation, bearing in mind that Daesh is now getting increasingly embedded in Sirte, and is very likely shortly to take over the Libyan oilfields, which would give it a new resource with which to carry on its hideous operations?

Baroness Anelay of St Johns: My Lords, on my noble friend's first point, we are not considering engaging in land warfare and having our Armed Forces within Syria. When the Leader of the House repeated the Prime Minister's Statement, she set out why that was the case, so we are not planning for that. My noble friend is absolutely right to draw attention to the very serious position in Libya and the growing threat from extremist groups, including Daesh and groups affiliated with it. These groups pose a threat to the stability of Libya and the region itself, and potentially to the UK

and our interests and citizens overseas. We are working closely with international partners to develop our understanding of Daesh's presence in Libya, including in Sirte, to which my noble friend rightly referred. This includes working closely with Libya's neighbours to enhance their ability to protect themselves against threats from terrorists in Libya and prevent weapons smuggling across the region. We continue to urge all Libyans to unite against these extremists.

Lord Anderson of Swansea (Lab): My Lords, on the political track, is it the view of the Government that Russia is moving towards accepting that there will be no place for Assad at the end of the transition period? We understand, of course, that oil provides a substantial part of the financing of Daesh/ISIL, but also there are taxes, including taxes on lorries crossing frontiers to go into Syria. What is being done to block those lorry convoys supplying the areas controlled by Daesh? Finally, clearly at the end of the period, any successor regime will inherit a wasteland. There is the very welcome initiative by the Government to host the pledging conference in February, but are we also preparing to mobilise refugees both in the region and in Europe to help to reconstruct their homeland following the terrible devastation caused by the war?

Baroness Anelay of St Johns: My Lords, we welcome the fact that Russia was prepared to engage in the Vienna talks. Clearly, how its views on the position of Assad may or may not change is a matter of further consideration. That makes negotiations perhaps a little more testing than might otherwise be the case, but clearly it is important that those talks continue. We have made it clear throughout that Assad cannot remain in power because he is a recruiting sergeant for Daesh's very existence, in that people feel that they have to tolerate Daesh and work with it. With regard to convoys, as I mentioned earlier, air strikes can be used specifically not only to target the oil production facilities but to disrupt the transport of materials—not only oil but things such as weaponry. As regards the border crossing, it is important that we continue to liaise with our colleagues in Turkey as much as possible to maintain the sanctions regime which has been imposed. I confirm that we are looking very closely at how the pledging conference will approach the issue of refugees. When I was in Iraq, I visited a refugee camp and was made aware at first hand of the vast challenge ahead. Those who are not in the camps will also need much assistance from all of us.

Lord Alton of Liverpool (CB): My Lords, the noble Baroness and the Statement rightly referred to the terrible depredations occurring in Syria and the egregious violations of human rights. Earlier today, in a Written reply, the noble Baroness stated:

"We are not submitting any evidence of possible genocide against Yezidis and Christians to international courts, nor have we been asked to".

Will the noble Baroness reflect on that reply and reconsider the Government's position, and at least perhaps open discussions with the International Criminal Court? If the difference that marks us out from Daesh and those involved in these atrocities is that we believe in upholding the rule of law, is it not important to emphasise that a Nuremberg moment will come for those responsible for the mass graves—she may have seen them when she visited Sinjar recently—where Yazidi women who had been raped were then killed, and the other examples of beheadings, crucifixions and the many atrocities which were outlined in our recent debate in your Lordships' House? One day, all that must have a day of reckoning.

Baroness Anelay of St Johns: My Lords, first, I make it clear that I was not close to Sinjar itself. I was in Erbil when the assault was launched. I would like to make that clear. With regard to genocide, as I have mentioned before, we condemn utterly those who carry out mass killings. There is no doubt about that. There is also the fact that it is for courts to determine whether that falls within the legal definition of genocide. We will continue to monitor exactly how the ICC is dealing with these cases, or not. I understand that, as the matter stands, Fatou Bensouda, the chief prosecutor, has determined not to take these matters forward. However, I will check whether there has been any change to that position. I have made it clear in the work that I have done on preventing sexual violence in conflict that we must not tolerate impunity, and therefore, if the ICC is unable to act, I hope that we can work throughout the international community to find another way of providing justice to those who have suffered at the hands of Daesh—the Yazidis, the Syriacs and the other small communities forming the component parts across Iraq and Syria—because all of them deserve our respect and help.

Viscount Hailsham (Con): My Lords, with regard to our bilaterals with Turkey, will the Government impress upon the Turkish Government the importance of exercising the maximum self-restraint where there are intrusions into its airspace? To shoot down another Russian aircraft would be extremely unfortunate.

Baroness Anelay of St Johns: My Lords, we defended Turkey's right to defend its own airspace when it reported that it gave warnings to Russia, but we have urged both Turkey and Russia to de-escalate. My noble friend points out absolutely correctly how important it is that, in circumstances such as this, those seeking to defeat Daesh should not seek confrontation between themselves.

Lord Hain (Lab): My Lords, in welcoming the building of a Sunni local police force in Ramadi, I press the Minister to engage with the Sunni powers in the region, especially Turkey, Saudi Arabia, the Emirates and others, to ensure that Sunni soldiers are available to fight Daesh on the ground. Clearly, as the noble Baroness has indicated, it is not for western troops to do that, certainly not British ones, and it is certainly not for Shia troops either. You have to have Sunni soldiers there. Nobody thinks that the 70,000 force—which may or may not exist—is capable of doing this, or that a future inclusive Syrian Government can do it because that might take ages to establish. There is a need for Sunni soldiers now to beat Daesh.

Baroness Anelay of St Johns: I entirely agree with the noble Lord. When we seek to achieve a military victory followed by a political success, it is important to have an inclusive Government. Part of the sign of an inclusive Government is that you have armed forces that are also inclusive, so it is important that Sunnis feel that they are able to play a part in the military victory in both Iraq and Syria. When I was in Baghdad recently, I had the privilege of giving a presentation on the prevention of sexual violence in conflict to the most recently established group of cadets there. I did not ask whether they were Shia or Sunni; I asked them to think of those civilians when they went out to fight. The noble Lord is right, it is important for those from all minorities—and majorities—to be able to take part in recovering a real life for all in both Syria and Iraq.

Lord Berkeley of Knighton (CB): My Lords, talking as the Minister did about the fear and success in avoiding civilian casualties and given the figures she gave, I get the impression that extreme caution is being shown about air strikes in Syria—we had the oilfields. This may be partially because in Syria we do not have people on the ground for precision-point targeting in the way that we have—or perhaps I should say, may have—in Iraq. I ask the Minister to confirm that this caution exists, which I and, I suspect, many others in your Lordships' House very much welcome.

Baroness Anelay of St Johns: Yes, extreme caution is indeed exercised. The noble Lord was right to return to that theme. We were able to provide extra technical help with the Reaper that we provided so that there is surveillance overhead. The noble Lord is absolutely right: it is not effective to get intelligence on the ground—it puts people at too much risk. Intelligence is sought from surveillance overhead. We are also able to provide technical help from weaponry that can target very closely. The target was described to me, when the firing takes place, as being the size of a small dining table.

Baroness Neville-Jones (Con): Can my noble friend the Minister say a little more about the extremely welcome news that the UK has set up a coalition communications cell and, in particular, about who else might be participating? Given that the activities and communications of Daesh are particularly professional, can she say whether, on our side, we are employing professional broadcasters? In particular, are we getting local voices to participate in spreading the messages that we need to put across?

Baroness Anelay of St Johns: With my noble friend's distinguished background in the field of cyber and intelligence generally, I know that she will not expect me to give information even if I had it. I certainly would not wish to do so and have it in *Hansard*. I can assure her that, when looking at the work we do in the communications cell across the field, we are engaging the brightest and the best across all ages and backgrounds. She is right to say that Daesh has proved itself extremely smart in the sphere of communications. We can be smarter, it is true, but we also need to be committed to continuing the fight for a long period and that is something that this Government are prepared to do.

Lord Soley (Lab): I echo the request of my noble friend Lord Touhig for the Government to keep the House updated on the progress of the talks, not least because Members of both Houses, and indeed in the wider country, who did not support military action need to see that this is part of a political process. That is very important—I have felt from the start that that message did not get through and it needs to.

Following up on that, if those important talks in Saudi Arabia are successful—and it is a big if—we need to think about a policing mechanism in Syria afterwards; that was referred to earlier. There is clearly a role in that for the United Nations, among others.

Baroness Anelay of St Johns: My right honourable friends the Prime Minister and Foreign Secretary have committed to giving updates on a three-monthly basis. They can be flexible and do so more regularly, particularly when a House may be going into recess. I will certainly ensure that it is possible for noble Lords to have an update before the February Recess, outside the Chamber. We can have a meeting on that.

With regard to the issue of—sorry, I lost track of the second part.

Lord Soley: It was about some form of international policing.

Baroness Anelay of St Johns: I apologise to the noble Lord—I could not read my own writing. I mentioned earlier that we are pleased to now be in the position where there will be a trained Sunni police force. It is the first step. Policing is clearly important as, when places are taken from Daesh, people will want to return to them but those places often have been booby-trapped with IEDs and police need to be in place to provide security while any remaining dangers are cleared. It is the only way for a community to be in a place and feel safe to set up its own council and organisations to run itself.

Lord Williams of Baglan (CB): I welcome the Minister's Statement, which was very good. I want to pick up on one aspect, namely the coalition that has been formed by Saudi Arabia. We need Saudi Arabia to defeat Daesh but, at the same time, we must be careful that it is not done on a sectarian basis. The Minister referred earlier to Haider al-Abadi, in the Iraqi Government. Iraq is not part of the coalition formed by Saudi Arabia, nor will it be. There are several other states that have abstained from joining that coalition, including states with a long history of combating terrorism. One example is Algeria, the largest country in the Maghreb, and another is Indonesia, the world's largest Sunni Muslim state. I urge some caution in backing Saudi efforts for an alliance that is essentially Sunni and not Islamic. After all, what we are fighting for in Iraq and Syria is the preservation of countries with faiths of many denominations.

Baroness Anelay of St Johns: My Lords, I agree that it is important that the Islamic military coalition should consider the interests of both Sunnis and Shias, but that should come in any event because there are Shia

minorities within the coalition countries. Bahrain, which is a member, has a Shia majority population. The noble Lord is right, however, to sound a word of caution. We welcome the creation of the IMC to fight terrorism and we look forward to hearing further details from the Saudis on the IMC's intended remit and scope. We want it to be able to work closely alongside the global coalition against Daesh to tackle the terrorist scourge.

Lord Selkirk of Douglas (Con): Has there been substantial progress in destroying the stockpiles of chemical weapons, which was promised quite some time ago?

Baroness Anelay of St Johns: We continue to receive reports on the removal of chemical weapons. I answered a Question about this a little while ago and have also answered a Written Question. We continue to keep that under review, although I am concerned by reports that, in some circumstances, chemical weapons have been used in Syria. It is, therefore, even more important that we have regular inspections and reports. The specific stockpiles to which my noble friend referred have, we are told, been reduced.

Lord Marlesford (Con): Given the importance attached by the Government to the International Syria Support Group, which, according to the Foreign Secretary, comprises the major international players, I was rather surprised that there has been no reference to Egypt. Do the Government recognise that Egypt not only is the largest Arab country but has the largest Arab army? President al-Sisi is attempting to introduce into Egypt a secular Government, based on a path to democracy, which is exactly what we would like to see in Syria. What role do the Government see for Egypt in the resolution of these conflicts?

Baroness Anelay of St Johns: My Lords, when I met Foreign Minister Shoukry in New York earlier this autumn, my opening words to him were to describe Egypt as a major regional player. It is because of that that the Government take very seriously the importance of engaging with Egypt on how it can play its part in ensuring that Daesh is defeated. All those who take a stand against extremism, or against Daesh, need to work together and that is what we will do.

Education and Adoption Bill

Report (2nd Day) (continued)

8.10 pm

Clause 10: Duty to facilitate conversion

Amendment 17A

Moved by ***Lord Watson of Invergowrie***

17A: Clause 10, page 7, line 28, at end insert—

"( ) In facilitating the conversion under subsection (1), the governing body must ensure that parents and staff of the school are fully informed of the steps being taken."

Lord Watson of Invergowrie (Lab): My Lords, the fourth group of amendments today centres on the Government's Amendment 20, which introduces the concept of communication with parents. I want to focus first on Amendment 17A,

This provision relates to a situation where the decision has been made on academisation. Not only has that decision been taken without any recourse to the local authority or the governors of the school but its implementation now becomes, at least in part, the responsibility of a local authority and the governing body. How perverse is that? The Government are saying to elected representatives, both councillors and governors, since many governors are elected by their peers: "This school has been deemed to be failing and we're going to remove it from its current status and make it an academy. We're not aware whether you want that to happen and frankly, we're not interested because the regional schools commissioner and the local head teacher board have decided what's best for you. But wait: we do, after all, have a role for you in this process because you, the local authority and the governing body of the school, are duty-bound not just to avoid impeding the conversion but actually to facilitate it".

Clause 10 states that the duty of the local authority and the governing body includes,

"a duty to take all reasonable steps to facilitate the making of Academy arrangements with",

the chosen sponsor. That sounds rather menacing. It is not at all clear what fate might await anyone or any organisation that defied the Secretary of State. Perhaps the Minister might enlighten us as to what sanctions he intends to bring to bear on those who decline to co-operate.

Our Amendment 17A would at least introduce a smidgen of involvement for one group directly affected by the decision: the parents. We heard in the Minister's response to group 2 that the Government regard parents as, all too often, impediments to change. It goes without saying that a forced conversion would be likely to cause considerable anger and anguish among parents, who would demand to know the details and all the circumstances. At the very least they have a right to expect that, within the provisions of the Bill, they would be entitled to be fully informed of the steps to be taken. Given the Minister's movement on the question of information being conveyed to parents, as contained in government Amendment 20, it is surely beyond peradventure that they will find it within themselves to accept Amendment 17A. If they do not, we may well need to test the opinion of the House.

Government Amendment 20 is to be welcomed, as far as it goes. The problem is that it simply does not go far enough. It is a nod in the direction of appreciating the need, at the very least, to let parents know what is to happen and who is going to make it happen, but it is no more than that. In the discussion that I had with the Minister last week, he certainly led me to believe that there would be a government amendment allowing parents to assess the plans of the proposed sponsor. The implication was that if the parents were not enamoured of them, another sponsor would be found.

[LORD WATSON OF INVERGOWRIE]
That is a considerable distance from the wording of the Government's amendment. For that reason, it came to me personally as a disappointment.

As I stated in debate on group 2, there is a world of difference between communication and consultation. Communication involves merely telling people what you intend to do; consultation involves saying to people, in what is surely a much healthier situation: "Here are our plans. What do you think of them? Can they be improved? Do they have the right emphasis? Do you believe that they will result in the school's performance improving, and quickly?". But none of that will happen because, as we heard in relation to the amendments in group 2 on consultation, the Government refuse to ask people their opinion for fear of receiving a "No, thanks" in reply. It does not wash to use children as the cloak to cover the determination to keep out any dissenting voices—if I was to be accurate, any voices will be kept out, dissenting or otherwise.

The amendment requires only that, once the regional schools commissioner has identified an academy sponsor to take over a school that is eligible for intervention, the sponsor must communicate to parents information about their plans to improve the school. However, in his letter to Peers, the Minister said that further information about,

"what this should typically look like in practice",

will be put into the *Schools Causing Concern* guidance. We await that guidance but there are no requirements in the amendment for the sponsor to put in specific details about what it plans to do, so that offers an escape clause for sponsors which do not wish to be troubled by meeting the parents concerned. It would be appropriate to ask why any sponsors worth their salt would need to be told to communicate with parents in any case, but it seems there must be some of them.

8.15 pm

Clearly, keeping parents informed is no substitute for real consultation about the future of their child's school. There is surely a real danger that some sponsors will be likely to treat this as a box-ticking exercise, and that there will be no mechanism for parents to hold an academy sponsor to account over the information it provides before it takes over a school.

It seems that the Ministers—the noble Lord, Lord Nash, and the noble Baroness, Lady Evans—have a mindset that meets almost with disbelief the very idea that any parent could possibly want their child's school to stay in the maintained sector. That is certainly the impression given. In passing, I might also ask the Ministers why their requirements as outlined in Amendment 20 apply only to maintained schools. There is no indication as to what will happen when an academy has been taken out of the hands of one sponsor and transferred to another. This demonstrates, not for the first time in the Bill, a two-tier approach by the Government and I invite the Minister to let the House know why the parents of children in academies should not be entitled to the same facility, inadequate as it is, as those in maintained schools.

Clause 9 concerns consultation about the identity of sponsors in certain cases and states that the Secretary of State must consult over the identity of the sponsor where a foundation, or a voluntary school with a foundation, is subject to an academy order due to alleged poor or coasting performance. So we find that the Government do, after all, understand the concept of consultation and have included it in the Bill, but only for such as those in the categories listed in Clause 9. There is of course no provision for consultation over the identity of the sponsor in other cases, and that is unacceptable. Having granted consultation to foundation and voluntary schools—part of the maintained sector—the Government really have no reason to reject Amendments 21, 22 and 23, which give their new clause the beef that it should have had from the start. I hope that the Minister will appreciate that this is what parents want, not simply a pat on the head and a "Now you know"-type letter.

Finally, Amendment 27 would introduce a sunset clause. The Bill remains something of an enigma, largely because of its limitations. I have no doubt whatever that the Government are determined that every maintained school shall become an academy at some point. Recent pronouncements by the Prime Minister and the Chancellor of the Exchequer have made the Government's long-term plans plain and Her Majesty's Chief Inspector of Schools also reached that conclusion in his recent report. It is now a given that the Bill is merely a staging post on the route to full academisation. We cannot know what will follow in legislation to bring that about—perhaps the Minister will reveal something of his and the Secretary of State's plans in his response. In the absence of such an indication it is entirely appropriate that the Bill, when it becomes an Act, should be time-limited. I beg to move.

Baroness Perry of Southwark (Con): My Lords, I listened carefully to the noble Lord, Lord Watson, as I did to the noble Baroness, Lady Pinnock, in the earlier debate about consultation. A question which seems not to have been answered in what they ask for is: what would happen if the staff and parents decided that they did not want the change? Let us suppose they decided that they did not want anything to change and that this failing school, which was in dire straits, was the one that they wanted and liked. What would the people whom the noble Lord so rightly characterises as those who care deeply about the welfare of children in the school then do? Would they give in to the parents and staff and say, "All right"?

The noble Baroness, Lady Pinnock, said that it could be all over in six weeks. I am sorry, but it would not be if the parents were making a terrible fuss and saying, "We like our school the way it is". I have been involved in a change in a school which, without any doubt, was a total failure. It had vacancies of more than 15% and a 14% success rate of five good GCSEs among its pupils. But the parents sat there and said to me, "We like our school the way it is. Don't you touch our school". I tried to say to them, "Don't you mind that your children's chances are very limited? They are only going to have a very slim chance of getting five GCSEs and of having a future", and so on. But what do you do if it goes wrong? The only way this idea of consultation would work is if you go back to what the Government are saying about information and you

tell people what happens. You cannot consult if the result of the consultation will be an answer that you cannot accept.

Baroness Pinnock (LD): My Lords, considering that the noble Baroness, Lady Perry, has referred to a tiny speech I made earlier this evening, I will just expand on the views that we take on this side.

First, none of us wants a failing school to continue to fail. That is in absolutely nobody's interest. Secondly, all of us who have been involved in local communities over the years—as those of us on this side have—understand that parents get very attached to what they know and are often therefore reluctant to see it change, However, if a school is failing, change it must. It was the 2006 Act, I think—although I could be wrong—that enabled local authorities to intervene. In my experience, they do that: my local authority does. It can intervene by completely changing the board of governors and putting in its own governing body, with nominations made by the local authority, which can then change the head teacher. Then you work with parents to explain to them and get them to understand that they should not be putting up with this poor-quality education for their children. Change can then happen.

One example of that is a school about three miles away from where I live which was in special measures. The local authority removed the governing body—without its consent—and put in its own people, who were experienced governors from elsewhere, plus nominations from the local authority. The head teacher was changed, and that school was judged to be good in its recent Ofsted report. That seems to me to have achieved what we all want to see achieved, which is that no child should have to suffer education in a failing school. So it can be done, but if you are going to have long-term success, you have to take the confidence of the parents with you, because they play an absolutely critical role in ensuring that their children succeed. I repeat again that that is what we on this side want to achieve. It can be done.

Lord True (Con): My Lords, if, as the noble Baroness said, she wants this to proceed as quickly as possible and something to be done about a school, I am rather mystified why in Grand Committee and, so far, on Report we have heard a whole series of amendments from the Liberal Democrats to delay and complicate the process. It seems that the words they say or put down on paper, and what they do, do not seem to match—but perhaps I am not understanding something.

Equally, I do not quite understand why, from the Front Bench opposite, we have the idea of a sunset clause saying we will get rid of all this in five years' time. It is a funny way to go. I thought that in our democracy one was supposed to stand in a general election, put your plan to reverse the academy policy to the public and win the general election—or perhaps, on the basis of what we have been hearing on Report today, form a coalition with the noble Lord, Lord Storey, and the noble Baroness, Lady Pinnock.

Lord Watson of Invergowrie: That is plan B.

Lord True: I am glad that the House has been informed of that and am sure that academies up and down the country will note that. But I think that the unelected House should probably leave it to the public to make that decision rather than putting in a sunset clause.

However, I did go with the noble Lord, Lord Watson, on one point. I welcome what my noble friend Lord Nash has done in introducing a clear duty to communicate information and, pari passu, it may be that perhaps there could be some assurance that that duty to communicate would apply in the case suggested by the noble Lord, Lord Watson, where there is a move from one academy provider to another, even if it does not have to go into the Bill. But of course that is not what is in the amendments before us. The noble Lord had an opportunity to propose that amendment but did not.

The noble Lord, Lord Watson, also said that any academy worth its salt would want to communicate with parents. However, frankly, any local authority worth its salt—whatever it thinks and whether it is in charge of a failing school or not—should want to facilitate the change. Why would any authority not wish to? But it is perfectly reasonable for the Government to put in this provision which, again, the noble Lord has not tried to take out, although he referred to it. If a local authority is not minded to assist—and I have heard a few not-very-willing voices opposite—it is perfectly reasonable for the Government to put in a reserve power.

My own view is that these amendments fail. The House discussed the issue of extensive consultation earlier and a full House took a decision on that matter. Could we not now just settle on the communication which has been promised to parents, welcome my noble friend Lord Nash's amendment and proceed?

The Lord Bishop of Ely: My Lords, I am keen to follow what the noble Lord, Lord True, says in commending Amendment 20. The Minister very kindly earlier on commended the Church of England on its communication through its church schools. That effective communication, as I think the noble Baroness, Lady Howarth, said earlier on, is absolutely key. I know only too well that if there is fog in the pulpit, there is swirling mist everywhere else. Our communication through our church schools has to be effective because it is a key element in the building of fruitful relationships and networks of trust. Our diocesan multi-academy trusts are busy drawing church and community schools to join together and be more effective. But that is possible only through paying attention to parents and pupils in a process of effective communication, rather like what the noble Lord, Lord Sutherland, earlier referred to as an effective conversation, which is an ongoing process.

I was also taken by the attention drawn by the noble Baroness, Lady Morris, to the need for communication to be both determined and sensitive. If academy proprietors communicate clearly to parents that they understand the importance of the school's character and values, a relationship of trust is already under way. I would hope that through a memorandum of understanding with the department, and in open dialogue with the RSCs, we in the church and in the wider community shall see a fruitful engagement with all stakeholders through effective communication that pays attention to building relationships at every level.

Lord Storey (LD): My Lords, we on this side are now anxious to make progress. We have had the discussions and the debate and are grateful to the Minister for the concessions that he has made on a number of issues. I pay tribute to him for that. He has worked hard at it. We do have some fundamental differences, but this is government: we have to move on, accept what has happened and make the changes work.

Unlike the noble Lord, Lord True, I am not going to pore through every comment that Conservatives have made and try to score cheap points, except to say of course that at the last general election, they got 37% of the vote and only 26% of the entire electorate.

Lord True: I did not think that it was a cheap point in this ancient democracy to say that the people decide.

8.30 pm

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, I shall speak to government Amendment 20 concerning communication with parents, the opposition amendments on that and Amendment 27A.

Our amendment is all about ensuring that parents are informed about the action being taken to improve a school. I know that what any parent wants for their child is for them to attend a good school and for there to be quick, effective action if there is significant concern about that school. Where a school has failed, it is right that we take the action that we know will have the best possible impact on improving the school's performance, and that we make sure that this happens as swiftly as possible. We are clear that becoming a sponsored academy will always be the solution for a school judged inadequate by Ofsted.

That does not, of course, mean that parents do not have a right to know what will happen in their child's school. Once a sponsor has been identified for a failing school, it is already common practice for it to engage with parents about their plans for the school, ensuring that parents know what to expect and that they understand the process of converting from a local authority maintained school to an academy, and to give them the opportunity to share their views about the changes that the sponsor proposes to make.

We have tabled Amendment 20 to ensure that there is greater consistency for parents on this matter. The amendment will provide assurance that when under-performing maintained schools are becoming sponsored academies, parents will always be kept informed.

To support the amendment, we will also make changes to the *Schools Causing Concern* guidance to reflect the new requirement. We will use that guidance to provide more information about what the communication from sponsors could typically look like in practice; for instance, to suggest that sponsors might want to write to parents when they are first matched to the school to provide more information about them as sponsors—although, as we have heard, it might be appropriate in some cases for the governing body to make the first communication—to explain their ethos, what parents can expect to happen next, and hold meetings with parents to share information and answer questions. We think it more appropriate for this to be set out in guidance rather than in legislation, ensuring that sponsors have flexibility about precisely how they communicate with parents, to allow them to tailor their approach to the specific circumstances of the school.

We will also reflect the new requirement on sponsors in the notification letters that are sent to the school governing body, the head teacher, the local authority and, where appropriate, the trustees of a foundation school, the religious body responsible for the school, where it is one with a religious character, and to the sponsor itself where one has been identified, where a school is being required to become an academy. We will specify as standard in those letters that the sponsor identified by the RSC will communicate to parents information about its plans to improve the school. This will ensure that all parties are aware of the duty on sponsors.

I spoke earlier about the commitments we have made to ensure that parents are kept informed specifically when a school is coasting. As I committed earlier, we will use the *Schools Causing Concern* guidance and the notification that RSCs will send to the governing bodies of coasting schools to make very clear our expectation that governing bodies must inform parents when the school has been identified as coasting.

In the light of the amendment that I have tabled and the other commitments we have made to ensure that parents will be kept informed when their child's school is eligible for intervention, I hope noble Lords will be in no doubt that we recognise the importance of ensuring that parents know what is happening in their child's school, and will therefore support the government amendment.

Noble Lords have tabled Amendments 21, 22 and 23 to alter what I have proposed. Rather than requiring sponsors to communicate to parents about their plans to improve the school, the sponsor would be required to consult parents about their plans. As I have already set out, I cannot accept the reintroduction of a statutory consultation process. That absolutely does not equate, however, to a belief that parents should not have a right to know, or be involved in, changes that affect their child's school. I believe that the sponsor, who will be responsible for transforming the school, should have the duty to communicate to parents. We know that sponsors already put a lot of effort into explaining the steps that have been taken. Our amendment will ensure that this will apply consistently.

We expect that in many cases, sponsors will want to go considerably further than the minimum requirement and seek views from parents about specific changes they intend to make to the school—for example, if they plan to change the name of the school or the school uniform, they may ask for suggestions, views or designs concerning their proposed options. However, requiring sponsors to engage with parents through formal consultation, which the amendments propose, is not appropriate. As I said, a formal consultation process is inflexible and in too many cases will unnecessarily raise the temperature of the debate. The arrangement that I have proposed is a much more

appropriate approach and gives the sponsor flexibility to tailor its communications to parents to best suit the circumstances of that particular school.

The noble Lord, Lord Watson, asked why this does not apply to academies. Amendment 20 addresses the specific concerns raised by noble Lords about the requirement for failing schools to become academies and to share information about the process involved when a local authority maintained school changes its status to an academy. In cases where an academy is moved to a new sponsor, I am happy to reassure the noble Lord that we will consider in our revisions to the *Schools Causing Concern* guidance how to make it clear that regional schools commissioners will ensure that parents are kept informed.

The noble Lord also asked what would happen if the sponsor fails to communicate with parents. The duty is clear: the sponsor must communicate to parents information about its plans to improve the school before it is converted to academy status. If the sponsor were to fail to comply, we would not enter a funding agreement with that sponsor in respect of that school, and would look for an alternative sponsor. I am very happy to place that on record, and I hope that that reassures the noble Lord.

Amendment 17A proposes a requirement for staff to be kept informed of the changes in a school being required to become a sponsored academy, in addition to parents. While parental engagement is clearly critical, communication with others is already guaranteed through existing legal provisions. Clause 10 is explicit that the governing body and local authority should work with the named sponsor. The governing body will include the head and representation from parents, staff and the local authority, so those parties will also be kept informed via that route. The local authority will be further intimately involved in the detail of the transfer process of the school to academy status.

Amendment 17A proposes that staff at the school should be included in communications from sponsors, but the existing TUPE process means that employees will be notified about the transfer by their employer or the academy trust. Where the academy trust proposes any changes which affect the employees, there must be consultation about them. This means that there is already a legal obligation for staff to receive information about the incoming academy trust and be consulted on any proposed changes to their terms and conditions prior to any academy conversion taking place. This is comparable to what my amendment now proposes to introduce for parents. It is unnecessary for staff to be additionally included in the new requirement, and therefore Amendment 17A is unnecessary.

Lord Watson of Invergowrie: Before we leave this amendment, I asked in my opening remarks what would happen if local authorities or governors declined to co-operate. I am not necessarily talking about them being obstructive—just about them saying that they were not going to do anything. What would the Minister anticipate would be the response to that?

Lord Nash: I think we have the power to bring forward directions to the local authority and, eventually, I guess that we could go to court. But I shall write to the noble Lord to clarify that point.

I am grateful to the right reverend Prelate the Bishop of Ely for his supportive words about our Amendment 20. As I said, the Church of England is very skilled in community cohesion, and I take great comfort from his support for our proposals for communicating with parents. I also take this opportunity to say more about my assurances about how we will ensure that the religious character of a faith school will be protected when any interventions are necessary. The Government are firmly committed to enabling schools with a religious character to protect and sustain their ethos. There are already provisions in the law that ensure that, when a school with a religious character requires intervention, the religious character will be protected. When a faith school becomes an academy, it retains its religious character by virtue of Section 6 of the Academies Act 2010. The academy's religious character is protected through provisions within the academy's funding agreement with the Secretary of State and the academy trust's articles of association.

When a Church of England school joins a non-faith led trust, we intend to insert the following within the trust's articles of association: a faith object, which requires the trust to ensure that the Church of England character of the church school is maintained; an entrenchment clause that requires written consent of the diocese for changes to articles relating to the maintenance of the church school's religious character—for example, those relating to the local governing body of the church school and appointment of staff; a requirement that members and trustees are appointed to provide proportionate diocesan representation on the MAT; and a requirement on the MAT to establish an LGB and for the creation of a scheme of delegation relating to the religious character of the school, agreed between the MAT and the diocese. The supplemental funding agreement for the church school will include a clause requiring the establishment of a governing body with the purpose of honouring the characteristics and ethos of the school. The master funding agreement for the MAT will also include a clause to prevent the MAT amending articles relating to the church school's governing body and the scheme of delegation. A provision within the church supplemental agreement will ensure that the MAT cannot make amendments to the articles as they relate to the governing body of the church school without diocesan consent. This will agree the best academy solutions for any failing church schools, and we are reviewing and updating the non-statutory memoranda that set out the roles of dioceses and RSCs as they relate to the academy programme, to reflect the changes in this Bill and the wider evolving policy landscape. We expect that regional schools commissioners will work closely with dioceses. We will ensure that the RSCs will comply fully with the terms of the memoranda, and we support diocesan directors of education in upholding those terms.

Finally, Amendment 27 proposes that the education provisions of the Bill will be repealed after being in force for five years. The Government are focused on driving up standards of education in this country and giving children the best possible future. The Bill is an essential part of that; it will ensure we have the necessary powers to swiftly tackle underperformance, but it will

[LORD NASH]
also ensure that underperformance can be tackled whenever it occurs. It addresses not only schools that are failing right now, but will also ensure that any schools that slip in future will get the support and challenge they need to improve. The Government's ambition is for every school to become an academy. Until the point when all schools have become academies, it will be necessary to have powers that allow swift and robust intervention in maintained schools that are causing concern, therefore it is right that we have the powers and duties introduced by the Bill for the foreseeable future.

What is in question here is a fundamental undermining of this Government's commitment to drive up standards of education. It is not in the spirit of this House's role to make legislation with a built-in expiry date, and I do not consider it necessary in this case. If and when we reach a point where all schools have become academies, we will of course consider what legislation it is necessary for us to repeal at that time. We will, anyway, review and report on the impact that these provisions are having through the academies annual report, which the Academies Act 2010 requires us to produce—or, if in five years' time this House does not consider the provisions in this Bill necessary, as this amendment specifically anticipates, for whatever reason, this House should have a full and thorough debate on that matter in five years' time. I do not want to see noble Lords tie our hands on this matter now through this clearly inflammatory amendment. Amendment 27 is not only unnecessary but not in keeping with the long-standing principles of this House, and I urge the noble Lord not to press it.

Following this debate, I hope that the noble Lords will appreciate that we have listened to concerns here and will support our government amendment and the right balance it achieves between decisive and clear action, while ensuring that parents are informed. I therefore hope that the noble Lords will support my amendment ensuring communication to parents and would urge the noble Lords not to press their other amendments.

Lord Watson of Invergowrie: My Lords, I thank the Minister for that comprehensive response. I would like to say a word or two about some of the other contributions. I am not sure whether the noble Baroness, Lady Perry, was here when I made my closing speech on the second group of amendments, but I think that I answered most of the points that she raised then. I shall briefly repeat them. The fundamental point is that doing nothing was not an option; it never has been and it has not been suggested. I outlined other possibilities at that time, and that remains our position. Secondly, we have not advocated a ballot, so it is not about having a vote on the matter. Thirdly, the emphasis, as the noble Baroness, Lady Pinnock, said, will be on convincing the parents that what is being proposed is in the best interests of the children. To me, that is always the best way forward, if possible. Finally, Amendment 23 says that the Secretary of State will have the final say by being obliged to "take into account" what has happened. I hope that that answers her points—it is not all or nothing.

I think that I heard the noble Lord, Lord True, correctly when he said in response to the noble Lord, Lord Storey, that in this democracy the people decide. That is exactly what we are calling for—but it seems that that does not happen with academisation.

The noble Lord, Lord Nash, said that parents have the right to know of and be involved in the plans. Involvement is a rather elastic concept, and what it means to one set of parents may not be what it means to another. I certainly appreciate the value of Amendment 20, as I said in my opening remarks, and parents will be pleased that they will at least, I imagine, be summoned to a meeting in the school hall, given a presentation and able to ask all sorts of questions, but there is no way for any rethink on the sponsor. That is the fundamental issue from my point of view. There may well be a number of reasons why the sponsor is deemed to be unfit as a result of what they say to the parents, but there is no way of dealing with that. That is a problem.

8.45 pm

The Minister said that having consultation could raise the temperature of the debate. A change of school is likely to raise the temperature of the debate anyway, and simply telling parents the facts without asking what they think may well exacerbate their concerns. I remain unconvinced that parents are incapable of discussing in a responsible manner the sponsor's plans for the school that their children attend. I remain convinced that the overwhelming majority of parents will welcome action to improve the school that their children attend. I am well aware that parents may object for other reasons, but the Government are underestimating parents' ability to have an interest in and a knowledge of the education of their children and to want to do their best to maximise its benefits for their children. I find that a bit depressing because it seems that I have rather more faith in human nature than either of the Ministers.

Amendments 21, 22 and 23 are a step down from our proposals in Amendment 16A as the decision on academisation would have been made by this stage, but the Minister is still not prepared to countenance any proper involvement of parents or their having a meaningful voice, which is a cause for regret. However, we have been through the issues in some detail. I hear what he says on the sunset clause and what may happen. It is not clear what the future holds, and we put this amendment down to highlight that fact. In the circumstances, we have discussed these issues as much as we usefully can. I beg leave to withdraw the amendment.

Amendment 17A withdrawn.

Amendment 18 had been withdrawn from the Marshalled List.

Amendment 19

Moved by ***Baroness Pinnock***

19: After Clause 11, insert the following new Clause—

"Land owned by communities and faith groups

Where an Academy order under section 4(A1) or (1)(b) of the Academies Act 2010 has effect in respect of a school, the Secretary of State, when making the Academy order,

must ensure that ownership of the land used by the school does not pass to the Academy, but is retained by the landowner where the land is—

(a) owned by a community group, or

(b) owned by a faith group."

Baroness Pinnock: My Lords, this amendment, to which my noble friend Lord Storey has also put his name, relates to the future of land passed into the academy trust during the process. I thank the Minister for the clarity of his response to my Question in the Chamber earlier this week about the future of church school land if that school becomes an academy. I understand that Church of England bishops have secured a memorandum of understanding that safeguards the future ownership of church land, and I am pleased that that concern has been resolved.

However, other land ownership issues remain unresolved or at least not resolved satisfactorily. For example, I am a governor of a voluntary controlled high school which is not faith-based. It is one of a handful in the whole country. The land on which Whitcliffe Mount School in Cleckheaton, of which I am extraordinarily proud, was built was donated by local businesses 100 years ago and the school building was built by public subscription and the urban district council. What safeguards are there for this trust land if the school becomes an academy? After all, it was in every sense of the word donated by the public, the local community.

There is the wider question of safeguards for the future of land that is currently in the ownership of local authorities. When maintained schools become academies, the land is typically the subject of a 125-year lease. However, the latest clarification of the guidance, which is in the Department for Education's *Disposal or Change of Use of Playing Field and School Land*, which was issued in May this year, explains:

"Prior written consent of the Secretary of State for Education is required to dispose of land (which includes any transfer/sale of freehold or leasehold land and the grant/surrender of a lease). Applications and notifications must be made to the Education Funding Agency".

Noble Lords will have noticed that the future of the land is subject to discussion not with the leaseholder but with the Secretary of State. That land—previously local authority land, which has passed to the academy trust—may well have been bought many years earlier by a local authority, with or without a grant from the Government. It therefore seems only right that the leaseholder is the main consultee if such land is ever the subject of disposal. Local people will be concerned if they think that school land they had helped years ago to purchase could be disposed of without local consultation. I trust that the Minister will be able to give me clarity about this important matter.

Lord Nash: My Lords, Amendment 19, tabled by the noble Baroness, Lady Pinnock, and the noble Lord, Lord Storey, concerns the ownership of school land when a maintained school eligible for intervention is required to become an academy. The Secretary of State has no power over privately funded land. That includes the majority of land held by the charitable trusts of church schools, and the majority of land held by the charitable trusts of the small number of non-church voluntary-aided schools. The provisions in the Bill do not change that basic position. As such, the ownership of land by these trusts continues to be protected. If the school to which the noble Baroness refers is a charitable trust, the Secretary of State has no power to acquire it.

Charitable trusts will be able to continue to hold their land and make it available to academies, as they do now. Where land is held by community groups and is in use by schools through local arrangements—for example, where the school uses the local rugby club pitch—there is no reason why any of the Bill's provisions should change those arrangements. Again, land owned by community groups will be private land, and it will continue to be for the individual group to make its land available to the school. Likewise, where community groups are making use of school facilities—for example, the school renting out use of its playing field—the school can continue to allow it to do so.

Where public land is made available to an academy trust—for instance, by a local authority—the LA would usually lease the land to an academy trust on, as the noble Baroness says, a 125-year lease. The model funding agreement makes it clear that the academy trust cannot dispose of this land without the Secretary of State's consent. In the rare cases where an academy trust's funding agreement is terminated, the land will either return to the local authority or alternatively be reassigned, but only for educational purposes. Where the land is designated playing-field land, there are additional legal requirements in place to protect this designation.

We are very clear that we are short of land for schools in this country, so we have a very clear procedure that we do not allow schools to dispose of land unless there are exceptional reasons. As I say, there is particular protection in relation to playing fields. I hope that I have provided noble Lords with clarity and assurance on the matter of land ownership, and I therefore hope that the noble Baroness will withdraw her amendment.

Baroness Pinnock: I thank the Minister for that clarification, particularly relating to the school where I am a governor. However, I did not quite hear him say that if local authority land is put into an academy trust, that local authority will become a consultee in any future disposal or change of use by allowing another educational use. It would be helpful for us to understand that.

Lord Nash: The 125-year lease will be between the local authority and the academy trust. That lease will make it absolutely clear, as would any lease, that the land cannot be disposed of without the consent of the landlord. It is not owned by the trust but is merely a lease, so the local authority in this situation ensures that it has an absolute right of control to stop any disposal. I can discuss this further with the noble Baroness, but these lease agreements are pretty clear on that.

Baroness Pinnock: I thank the Minister. I hope that we might exchange some written information for some final clarity on the matter. I beg leave to withdraw the amendment.

Amendment 19 withdrawn.

Amendment 20

Moved by ***Lord Nash***

20: After Clause 12, insert the following new Clause—

"Duty to communicate information about plans to improve school

After section 5D of the Academies Act 2010 (inserted by section 12 above) insert—

"5E Duty to communicate information about plans to improve school

(1) Before a maintained school in England which is causing concern is converted into an Academy, the proposed proprietor of the Academy must communicate to the registered parents of registered pupils at the school information about the proposed proprietor's plans to improve the school.

(2) For the purposes of subsection (1)—

(a) the "proposed proprietor of the Academy" is the person with whom the Secretary of State proposes to enter or has entered into Academy arrangements in respect of the school;

(b) a school is "causing concern" if it is eligible for intervention within the meaning of Part 4 of EIA 2006.""

Lord Nash: I beg to move.

Amendments 21 to 23 (to Amendment 20) not moved.

Amendment 20 agreed.

Amendment 24

Moved by ***Lord Nash***

24: After Clause 12, insert the following new Clause—

"Academies causing concern

After section 2 of the Academies Act 2010 insert—

"2A Academy agreements: provision about failing schools

(1) An Academy agreement in respect of an Academy school or an alternative provision academy must include provision allowing the Secretary of State to terminate the agreement if—

(a) special measures are required to be taken in relation to the Academy, or the Academy requires significant improvement.

(2) The Academy agreement must require the Secretary of State, before terminating the agreement on one of those grounds, to give the proprietor an opportunity to make representations.

(3) For the purposes of this section special measures are required to be taken in relation to an Academy, or an Academy requires significant improvement, if the Chief Inspector has given notice under section 13(3)(a) of the Education Act 2005.

2B Academy agreements: provision about coasting schools

(1) An Academy agreement in respect of an Academy school or an alternative provision academy must include provision allowing the Secretary of State to terminate the agreement if—

(a) the Academy is coasting, and

(b) the Secretary of State has notified the proprietor that it is coasting.

(2) The Academy agreement must require the Secretary of State, before terminating the agreement on that ground, to give the proprietor a termination warning notice.

(3) A termination warning notice is a notice requiring the proprietor—

(a) to take specified action to improve the Academy by a specified date, and

(b) to respond to the Secretary of State by making representations, or by agreeing to take that action, by a specified date.

(4) The Academy agreement must provide that the power to terminate the agreement on the ground that the Academy is coasting is available only if the proprietor has failed to comply with a termination warning notice (whether by failing to take specified action, or to respond, on time).

(5) The Secretary of State may by regulations provide that this section does not apply in relation to an Academy of a description specified in the regulations.

(6) "Coasting", in relation to an Academy to which this section applies, has the meaning given by regulations under subsection (2) of section 60B of the Education and Inspections Act 2006 in relation to a school to which that section applies.

2C Sections 2A and 2B supplementary - new agreements

(1) An Academy agreement may include further provision about—

(a) the procedure for terminating the agreement in accordance with the provision required by section 2A or 2B;

(b) the consequences of terminating the agreement in accordance with that provision.

(2) This section does not apply to agreements made before the day on which section 1A of the Education and Adoption Act 2015 comes into force (but see section 2D).

2D Sections 2A and 2B: supplementary - old agreements

(1) An old Academy agreement is to be treated as if it included the new termination powers.

(2) A provision of an old Academy agreement that relates to the procedure for terminating the agreement does not apply to the new termination powers.

(3) Subsections (4) and (5) apply where an old Academy agreement—

(a) contains provision about the consequences of terminating the agreement ("relevant provision"), and

(b) the relevant provision is expressed in a way that is capable of covering termination in accordance with the new termination powers.

(4) The relevant provision applies to termination in accordance with the new termination powers.

(5) If the relevant provision sets out different consequences depending on whether the agreement is terminated on the ground that the proprietor has breached the Agreement or on other grounds, termination in accordance with the new termination powers is to be treated as termination on the grounds of breach by the proprietor.

(6) In this section—

"new termination powers", in relation to an Academy agreement, means the powers to terminate in accordance with the provision required by sections 2A and 2B;

"old Academy agreement" means an Academy agreement made before the day on which section 1A of the Education and Adoption Act 2015 comes into force.""

Amendment 24 agreed.

Amendment 25 not moved.

Amendment 26

Moved by ***Lord Addington***

26: After Clause 12, insert the following new Clause—

"Regional Schools Commissioners

(1) The Secretary of State must publish a document which sets out the responsibilities and powers of the Regional Schools Commissioners which are connected with the provisions of the Education and Adoption Act 2015.

(2) The document under subsection (1) shall identify the Acts of Parliament and regulations from which each responsibility and power of the Regional Schools Commissioners is drawn.

(3) The Secretary of State shall ensure that the document under subsection (1) is made widely available to the public."

Lord Addington (LD): My Lords, it appears that my name is the lead one on both the first and the last group of amendments today.

We have heard a great deal about regional schools commissioners, about whom I knew virtually nothing at the start of the progress of the Bill. They are vitally important not only to the Bill but to the line of progress which the Government have taken on with regard to the creation of academies. They are the people who will enforce, check and regulate, so they have a huge role.

It is incredibly difficult to find anything about them unless you know how to chase it down in legislation. I know that it can be done, and was fortunate enough to have with me somebody who is quite good at it. A large number of bits of regulation that come back refer to each other and then go through. It really is not good enough that we do not have a better description somewhere of what they do, what their responsibilities are and how they will oversee this new structure which the Government clearly want to see in place. There is now an equally great complication because their function involves having to deal with local authorities. This is something of a cat's cradle of responsibility and authority. This amendment is merely a chance to get us to a place where we can have at least the nub of their powers and responsibilities in one place, so that somebody can check and refer to it.

There is a website, which I have looked at. It consists of one page, and under "About us" there are seven lines—and not even complete lines—on what the regional schools commissioners do. It just is not good enough. This may be a temporary state of affairs and there may be more coming, but at the moment this very important bit of a new structure within education is very inaccessible. The Government must be transparent. Half of the problems they have had with this are because people do not know where to get the information.

I have never pretended that anyone in any particular party grows horns and starts to chew on babies the minute they get in power and want to change something. I am sure that the Government have good intentions. I may disagree with them, but I am quite sure that they have good intentions. I ask them to please let us know what they are trying to do, in an easy format. This amendment is merely a way to say, "Bring it together in one place". Third Reading is still ahead of us; I am sure that there is some way to get at least some guide to what should happen. I beg to move.

Baroness Evans of Bowes Park (Con): My Lords, I will speak to Amendment 26, tabled by the noble Lord, Lord Addington, concerning the responsibilities and powers of regional schools commissioners. The noble Lord has proposed that the Secretary of State should be required to publish a public document that would describe RSCs' responsibilities and powers arising from the provisions of the Bill.

As we have previously discussed on various groups of amendments, we have already published a revised draft of the *Schools Causing Concern* guidance for public consultation, which describes, for the first time, how RSCs will use the intervention powers of the Secretary of State and what their responsibilities are for addressing underperformance in maintained schools, subject to the passage of the Bill.

RSCs already operate in an open and transparent way; my noble friend Lord Nash spoke about this when he answered questions from the Education Select Committee earlier this month on the role of regional schools commissioners. Alongside the *Schools Causing Concern* guidance, a large amount of information on the work of the RSCs is publicly available on the GOV.UK website. We publish notes of head teacher board meetings, conflicts of interest registers for board members and RSCs, information on the roles and responsibilities of the RSCs, and criteria for all types of decisions made by RSCs.

The key performance indicators used to monitor RSCs' performance have also recently been published through our written evidence to the Education Select Committee. From this month we are also publishing fuller notes of head teacher board meetings. Now that RSCs have been operating for 15 months, and in the light of the additional responsibilities that the Bill will introduce, we have carried out a review of the key performance indicators for RSCs to ensure that they remain effective and continue to incentivise the right behaviour. As a result, we have decided to remove the indicator on the percentage of the schools in each region that are academies. This is because we recognise that it is important that RSCs use their judgment to determine the best route for improving a school and it is important that their decision-making is not unintentionally affected by other factors.

In the light of the fact that the *Schools Causing Concern* guidance already describes the responsibilities and powers of regional schools commissioners that would result from provisions in the Bill, and as that document has already been made widely available to the public and is currently the subject of consultation, we do not consider the noble Lord's amendment necessary. Given the further information and reassurances that we have been able to provide, I hope that the noble Lord will withdraw his amendment.

Lord Addington: My Lords, that was a very strange answer. It was saying that there is a great deal of information and a great deal going on, and that it does not need to be brought together for this very important group. This is not about the information that is published. There is lots of information but the problem is that it cannot easily be found. That is what this amendment is about. To be perfectly honest, if you cannot find the information, you might as well not have it. I found it but it should not be necessary for people to have to chase it. The amendment is about bringing it together in one place where it can be easily accessed.

Baroness Evans of Bowes Park: As I said, the *Schools Causing Concern* guidance, which is out for consultation, has more information in it, but we are very happy to look at how we can bring it together in one place. As I said, there is information out there but we are very happy to take away the noble Lord's comments and to have a look at how we can improve the signposting and bring the information together.

Lord Addington: Well, it looks as though we have something to do at Third Reading. I would be prepared to meet anybody to try to get this information together. However, this is not about the amount of information, which can be found; it is about transparency and the information being easily available. A new structure is being introduced here and we need to know what it is. The old structure was not easy to understand either. I am suggesting that, in doing something new, we try to do it better. Perhaps I might have an undertaking that we will have the opportunity to discuss this at Third Reading. A nod will be sufficient; I see that I have it. I think I am right in understanding that we will try to address this issue in some way. Given that, I beg leave to withdraw the amendment.

Amendment 26 withdrawn.

Amendment 27 not moved.

Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2015

Motion to Regret

9.02 pm

Moved by ***Lord McKenzie of Luton***

That this House regrets that, notwithstanding the reasoned opinion from the European Commission, the Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2015 have been introduced without proper consultation and without the additional resources necessary being made available; and calls upon the Government to address the concerns raised by the Chartered Trading Standards Institute and the Association of Chief Trading Standards Officers, particularly concerning the capacity and resources available to local weights and measures authorities to fulfil the additional duties imposed on them under the Regulations (SI 2015/1681).

Relevant document: 11th Report from the Secondary Legislation Scrutiny Committee

Lord McKenzie of Luton (Lab): My Lords, this Motion to Regret is about the introduction of regulations without proper consultation and without taking account of their practical and financial consequences.

The regulations are concerned with the energy performance of buildings and amend the principal regulations, which call for the production of energy performance certificates when buildings are constructed, sold or rented out, and for the display of such certificates in large public buildings. They implement an EU directive which seeks to establish common measures across EU member states to increase the energy efficiency of buildings, reduce their carbon emissions and lessen their impact on climate change. Enforcement of these regulations is the duty of local weights and measures authorities—I shall refer to them as trading standards—which are service departments of local authorities.

The further measures required under these amending regulations are argued by the Government to flow from the Article 258 reasoned opinion from the European Commission and are necessary, it is said, to ensure that the enforcement of the principal regulations is effective and robust. They require enforcement arrangements to be put in place in another area when a local authority is itself under a duty—for example, to display a certificate—and to notify the Secretary of State that it has done so; the collection by trading standards of information covering buildings for which it has enforcement responsibilities, to enable effective enforcement to be planned; and the recording of all enforcement activity, with an annual report to the Secretary of State.

Let me be clear that we are thoroughly supportive of efforts to increase the energy efficiency of buildings, to reduce their carbon emissions and to lessen the impact on climate change. The issue here is the manner in which amending regulations have been introduced, which has denied those working in trading standards the opportunity to point out, in consultation, the ramifications of what is proposed. Indeed, the inadequacy of the consultation is a matter that your Lordships' Secondary Legislation Scrutiny Committee determined should be brought to the special attention of the House.

It is also about recognising that if these additional responsibilities are imposed on trading standards without additional funding, the inevitable consequence will be to draw effort away from other enforcement activity.

We are grateful to the Chartered Trading Standards Institute and the Association of Chief Trading Standards Officers for their briefing, which I believe has been generally circulated to noble Lords. This sets out matters that they should have had the opportunity to explore in a consultation before these regulations came into being. Fundamentally, the institute and the chief officers reject the notion that this is a minor change to the current situation and explain why it could significantly shift the focus of their efforts, to the detriment of consumers. To understand why this might be the case, one should just reflect on the range of areas for which trading standards has responsibility. The list includes consumer safety, counterfeit goods, product labelling, weights and measures, underage sales, animal welfare and more. They cannot all have the same priority.

This must be seen also in the context of the resources available to trading standards. The institute describes it as a small and financially stretched service which has seen average budget reductions of some 40%, and staff numbers have halved in the last five years. Unless the Minister can tell us otherwise, the DCLG appears to be denying the service extra resources, notwithstanding that these amending regulations, with their reporting requirements, are an extra burden.

As our briefing points out, to date, EPC rates have not been a priority for trading standards, given the assessment that there is a relatively low level of consumer detriment associated with non-compliance. The focus has been on tackling the supply of dangerous counterfeit products or protecting vulnerable residents from scam mail—both of which activities are often linked to higher-level organised crime. So the concern is that,

without further resources, the additional requirements to record and report activity under these EPC regulations will inevitably cause activity to switch away from enforcement activity that addresses greater consumer detriment. This cannot be an outcome that the Government should be happy with.

The Minister will also be aware of the BIS-led review into trading standards, which is exploring whether trading standards is the most appropriate mechanism for delivering some of its enforcement responsibilities and how its enforcement burden might be lightened. It seems a little odd, therefore, that these regulations take us in the opposite direction. The institute asserts that the enforcement of EPC regulations anyway has little relevance to the rest of the trading standards remit—a view supported by the LGA.

Noble Lords will be aware that the Secondary Legislation Scrutiny Committee was unconvinced that the EU processes, involving a letter of formal notice of infringement in July 2014 and the reasoned opinion in June 2015 with a two-month deadline, precluded some consultation, particularly with those who will be most affected by the new regulations.

Perhaps I can finish with a question to the Minister. Does she accept that, without further resources, these regulations will divert some of trading standards' efforts away from vital consumer protection, in particular its combating of the proliferation of scams that prey on the most vulnerable in our society? I beg to move.

Lord Teverson (LD): My Lords, I cannot get overexcited about this issue. Indeed, as the noble Lord, Lord McKenzie, said, this is an important regulation that has come from Europe, which is about making sure that houses are properly managed in terms of their energy efficiency, which I suspect we all believe is good. Clearly, there should be consultation, if that is possible. My experience of consultation in a lot of these areas is that the Government take little notice of it, but we should have it.

However, I disagree quite strongly that somehow the management of energy performance is less important and has less detriment to people than many of the other areas that trading standards looks at. I remind the House that there are some 20,000 excess winter deaths. This will not solve that, but it is a part of the process of making sure that we do not take the energy efficiency of houses and being able to heat them properly at a reasonable cost for granted. We forget that there is a continuing process of making sure that people understand the costs of energy when they purchase houses or public buildings.

Fuel poverty is one of the major issues in this country that all Governments have failed pretty badly to solve. The numbers have come down slightly recently, but they tend to correlate directly to energy prices.

Lord Harris of Haringey (Lab): Perhaps the noble Lord can explain the relevance of this set of regulations to fuel poverty. I understand that the regulations refer to public buildings rather than to homes.

Lord Teverson: The SI certainly relates to public buildings. I will come on to explain why it is important to the trading standards side. But I welcome the noble Lord's intervention. The regulations are partly about public buildings but I had also felt that they were partly to do with private buildings as well. I am happy to be corrected if I am wrong. This is an area of great importance and one that we need to keep on the agenda. I understand the resourcing issue entirely, but this is an area where trading standards generally needs to be involved and should be happy to be involved, subject to that funding.

What I find shameful is that, when the Government are trying to move forward in areas such as climate change, energy efficiency and other areas, DCLG has moved in the other direction. The vandalism of taking out the zero-carbon homes and the commercial buildings targets for 2019 was one of the most regrettable actions of this Government to date in this area. While I understand that there are issues around this particular statutory instrument, which I do not think are so important, the department has been woeful in its actions in this area since this Government came into power. After the great agreement that we have had in Paris, I very much hope that the department will start to get in line with the rest of the Government's aspirations and repair some of these areas. I thank the noble Lord for his contribution.

Baroness Crawley (Lab): My Lords, I support the objections to these regulations so ably raised by my noble friend Lord McKenzie of Luton this evening. I also ask the Minister why no proper consultation was considered necessary.

As president of the Chartered Trading Standards Institute, I know at first hand how this wonderful profession of trading standards officers is now stretched to the limit. They have experienced, as my noble friend has said, an average of 40% cuts in funding over the last five years and up to 80% in some trading standards services up and down the country. In this time of austere cutbacks their duties have not decreased. As well as all their other responsibilities to which my noble friend referred—consumer protection, e-crime, doorstep crime, food standards, animal health and welfare, age-restricted sales, and weights and measures—they are also, as we know, at this time of year especially, Santa's little helpers when it comes to product safety. For example, trading standards revealed recently that of the 17,000 hoverboards imported from beyond the European Union for Christmas that they have inspected, 15,000 have failed basic safety tests. That is 88%. This is not a service with time on its hands.

9.15 pm

DCLG may well say that the new requirements under the EPC regulations will not change the nature of trading standards duties in this area, but if it says that, I will have to disagree. The requirement to produce an annual report, as my noble friend has said, on all activity undertaken in this area, combined with the requirement that local authorities must enforce the regulations on behalf of another authority, means that the enforcement requirements have significantly increased and will force many services to reprioritise their work away from areas of high consumer detriment, often linked to higher levels of organised crime, to focus on these issues.

[Baroness Crawley]

Traditionally, EPC regulations have not been a priority for trading standards, despite what the noble Lord, Lord Teverson, has said, because of the low level of consumer detriment associated with non-compliance, compared to areas such as the supply of dangerous counterfeit products or protecting vulnerable residents from scam mail. The profession is extremely worried that the additional "record and report" activity under these regulations will draw attention away from these other crucial areas of enforcement in overstretched local authorities. As we know, the present list of statutory duties placed on trading standards involves more than 250 separate pieces of legislation. I am sure that the Government do not want to see, as a result of the implementation of these regulations, enforcement activity addressing other levels of consumer detriment being reduced. This may well happen as scarce resource is redirected towards the new EPC regulations to ensure that local authorities do not fail to fulfil their duty to report.

The Minister will no doubt tell us that DCLG has provided £3 million in funding towards these duties; however, that money has not been ring-fenced and we all know what happens when funding is not ring-fenced. Will the Government look again at the serious issue of increasing funding if they are insistent that these EPC enforcement duties remain with trading standards? This raises the whole question, raised by my noble friend, of whether the duties under the EPC regulations should remain with trading standards at all, as they appear to be outwith the rest of the trading standards remit.

The LGA's recent publication, *Remodelling Public Protection*, comments that the EPC regulations are not "actively enforced" by local authorities and,

"detract from the core purpose of public protection".

The report goes on to say:

"In the context of substantial funding cuts, all local authority services are under pressure. However, there are additional challenges specific to public protection services, which have a huge range of statutory responsibilities, a relatively low profile, and have not been prioritised or protected".

In the case of trading standards, that huge range goes at present from dealing with estate agents to dealing with anthrax.

In conclusion, let me make it clear that none of these objections means that we are opposed to implementing the DCLG's strategy to help tackle climate change. How could we be opposed in the week that has brought us such a positive outcome to the Paris climate change talks, where almost 200 countries have all come together to commit to the single goal of net zero carbon emissions by the end of the century? In that context, of course we understand the importance of the EU directive on the energy performance of buildings, which means improving the energy efficiency of our homes and public buildings, and from which these regulations come. Our argument is not with the principle of the regulations, but is one of resource and capacity within trading standards, and one that I trust that the Government will not simply ignore.

Lord Harris of Haringey: My Lords, I start by declaring my interest as chair of the National Trading Standards Board. None of the projects that it funds is directly engaged in the work involved here. It is important that I put that on the record. Perhaps I sounded critical to the noble Lord, Lord Teverson, but one of my concerns about these regulations is the extent to which they take us anywhere significantly close to the direction of the issues that he highlighted in terms of climate change and energy efficiency. As I understand them, these regulations place an obligation on local authorities to check that public buildings, not private buildings, display a notice that states how energy efficient they are. While I appreciate that that can concentrate minds and makes those running the buildings at least think about what is on the notices, I do not believe that they actually make an enormous amount of difference. But I understand that the Government have these requirements.

I have to say that to a casual observer, you cannot but be impressed by the zeal and enthusiasm with which the party opposite embraces any regulation that emerges from Brussels. On this one in particular, it has gone out of its way to say that it is critically important. Indeed, I am in awe of the enthusiasm with which they are pursuing it because of its connection with climate change. The noble Lord, Lord Lawson, is not in his place, but I know how united the Conservative Party is behind issues that address climate change. But, as I say, the zeal with which it has brought forward these regulations, in such a rushed fashion that there was no opportunity to talk to the people expected to enforce them, seems to be what many people would call absolutely admirable. It must demonstrate the commitment of Her Majesty's Government, first, to implementing all EU regulations as rapidly as possible, and secondly, to taking this important—albeit infinitesimal—step in the direction of protecting us from climate change.

Let us be clear: nothing is more important for a busy trading standards department than making sure that every public building, not in its area but in a neighbouring area, is displaying the right piece of paper within the public gaze that states how much energy that building is using. I agree that it is an incredibly important thing that local trading standards departments should be doing. If they had the resources to take this on board easily, I might not be concerned, but the reality is that it is not like that. The effect of the regulations is that they are saying to extremely busy, and in many instances very small, trading standards departments that they have to prioritise this requirement on them above all others. As my noble friend Lady Crawley has said, over the past 10, 20, 30, 40 or 50 years, there have been 250 or more pieces of government legislation that are supposed to be enforced by local trading standards.

Local authority trading standards have been cut in budgetary terms by 40%. We do not yet know what the implications will be in the statement to be made tomorrow about local authority finance. We have seen staffing levels reduced by 50%. Yet there are 250 obligations which they are expected to enforce. I was tempted to read them to your Lordships, even at this late hour. There are 29 pages of regulations. If the noble Lord wishes me to do that, I will. It makes exciting reading.

But within all this, this is yet another requirement and it has been given particular priority by these regulations. This is virtually the only one of those 250 legal obligations where there is a requirement placed on the local authority to produce an annual report on how it has fulfilled its obligations in respect of that area of activity. It is vital to check that public buildings are displaying these notices. But why is this requirement the one on which a local authority must produce an annual report on the progress it is making as regards implementation?

My first question to the Minister is: what resources are being made available? My noble friend talked about £3 million. How do we know that that £3 million is there, even if that is the figure? If a local authority budget has been cut by 10% or 20%, how do you know that that little bit of money is there? What is there to make sure that the local authority says, "Oh yes, above all else we must prioritise checking that public buildings display a notice because that is far more important than anything else we do"? If the Minister cannot say where this money is coming from, could she tell us which of the other 250 obligations placed on trading standards the Government expect the local trading standards departments not to follow? No doubt her brief will tell us that this is a matter for local decision—that local authorities are autonomous and that they make up their own minds. The reality is that central government, month upon month and year upon year, with these regulations—there are other examples—are placing additional obligations on local authorities to implement them without the resources to do it. So what should they stop doing?

How many civil servants will be employed to scrutinise these annual reports from trading standards authorities? Who will look at them? If the answer is that no one will look at them, what is the point of a regulation which requires that an annual report is produced? If, however, there is going to be a special unit created in the Department for Communities and Local Government to check these reports, what will they do if a local authority, having thought about its budget and all its other priorities—my noble friend Lady Crawley has talked about them—says, "Well, we have done nothing in the previous year and we don't intend to do anything next year in respect of enforcing this duty"? What will happen to that local authority? If nothing is going to happen, again, what is the point of these regulations?

My noble friend referred to hoverboards. In fact, her data were a week out of date. The flood of unsafe hoverboards into this country is rising. It is not 17,000 that have been checked by trading standards; it is 38,000. Of those, where the tests are back, 32,000 are dangerous or non-compliant. In some cases they are so dangerous that they can cause house fires. That seems to me to be a priority for local trading standards—to try to protect people who plug them in to charge overnight on Christmas Eve with the result that their homes burn down. I want the noble Baroness to tell us why, above all other trading standards duties, this one is picked out and must have an annual report, what the Government will do if it is not implemented and what they expect local authorities to give up if they are to follow the letter of the regulations.

9.30 pm

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I thank all noble Lords who have spoken in the debate on these regulations, and the Secondary Legislation Scrutiny Committee for its report, which has helped to inform it. I understand that the regulations apply to both domestic and public buildings. I thought that I might clear that up at the start.

I will start by addressing the concerns expressed by the Secondary Legislation Scrutiny Committee that the policy-making process relating to these regulations may have been weakened by the lack of consultation. I regret that in the limited time available to take action, my officials did not have the opportunity to carry out more extensive consultation on the regulations. However, they made use of the responses to the previous Government's consultation on the future of the display energy certificate, or DEC, regime, which sought views on this enforcement regime. They then tested these regulatory proposals in discussion with a number of local weights and measures authorities and officers, based on their experience of implementing the existing duty.

Local weights and measures authorities have been responsible for the enforcement of energy performance of buildings regulations in England and Wales since 2008. These regulatory changes do not change the nature of the existing enforcement responsibility or set central targets for activity, as enforcement priorities are a matter for local determination. They create a new reporting duty and require local measures to resolve a potential conflict-of-interest issue. From their discussions with local enforcement officers, my officials were assured that the additional burdens imposed by this reporting of existing duties would be minimal, as all enforcement activity should already be appropriately recorded locally. They discussed these measures with local trading standards officers and confirmed that this was not a significant burden. They confirmed that enforcement action is already recorded, so one annual report is no burden. It is for local enforcement bodies to determine—

Lord Harris of Haringey: Yes, but this is the only one for which there is a requirement to present an annual report to the department. Why?

Baroness Williams of Trafford: My Lords, the DCLG will collate and publish a national report. The data will not be challenged in order to provide transparency and national evidence on activity. I am guessing that it is being done because it is an important matter.

It is for local enforcement bodies to determine the nature and extent of the enforcement activity, responding to local priorities and needs. Local weights and measures authorities have the power and discretion to issue penalty notices if necessary, as well as being able to take action to inform, advise and educate. We have ensured that the new reporting requirements are as light-touch as possible to fulfil the purposes of these regulations and provide the transparency that I talked about.

[Baroness Williams of Trafford]

We did not simply spontaneously decide to impose requirements on these authorities, however. As set out in the appendix to the 11th report of the Secondary Legislation Scrutiny Committee, the department received a letter of formal notice in July 2014 from the European Commission relating to UK regulations. The focus of the letter was broader than the scope of these regulatory amendments as it was considering the issue and display of energy certificates in public buildings, although it raised a range of concerns on the adequacy of our enforcement regime. We responded to all the issues raised by the European Commission. We explained the measures we have put in place to allow scrutiny of compliance with the requirements of the Energy Performance of Buildings (England and Wales) Regulations 2012. This included the accessibility of registers on which all of our data are lodged and the amount of information that we put into the public domain.

In various exchanges with the Commission between July 2014 and June 2015, we made it clear that our enforcement regime did not need significant change. Views were sought regarding barriers to enforcement and information in the last Government's consultation on the future of the display energy regime in early 2015. Local weights and measures authorities have, for the last seven years, had a duty to carry out this work, and appropriate funding has been included in the local government settlement since 2008, when regulations first placed responsibility for enforcement on local weights and measures bodies.

The noble Baroness, Lady Crawley, talked about ring-fencing funding. The settlement provides unring-fenced funding and individual councils can decide what resources they will allocate to each service, depending on the local priorities and needs. We received a range of suggestions on alternative approaches, along with a suggestion that we should ring-fence the funding for this work if it remains a local government responsibility. However, ring-fencing would run directly counter to the long-standing government policy to allow local authorities to determine for themselves how best to use the total pool of resources allocated to them, and cannot be justified in these circumstances.

I believe that these regulations set out the minimum measures necessary to satisfy the UK's obligations under the directive and to protect England and Wales, and our local authorities, from the possibility of further action. However, that is not to say that they are set in stone.

I regret that we were unable to consult more widely regarding these regulations. However, despite the impression that we have had over a year to address any weaknesses, it was not until we received the Commission's reasoned opinion in June 2015 that it was clear that further steps were necessary, in particular to address a potential conflict of interest that may arise when a local weights and measures authority is required to enforce against its own parent authority and to put more information into the public domain on enforcement activities.

Once we received the reasoned opinion, we had to act quickly to address any shortcomings. Our focus was to ensure that any further measures we introduced were fit for purpose but as light-touch as possible, and to this end we concentrated on engaging with enforcement officers directly in order to reality-check our thinking. Were we to fail to satisfactorily fulfil the obligations of the directive within the time allocated to us, the likely outcome would be a referral to the European Court of Justice and ultimately the imposition of a multimillion pound fine. Any such fine could potentially fall on local as well as central government.

Going forward, my department will continue to be open to considering the views or proposals of authorities and others based on their experience of implementation. I am also aware of the ongoing review of the functions of local trading standards authorities being led by the Department for Business, Innovation and Skills, and we will consider any relevant recommendations that arise from that.

With that, I hope that the House is assured that we take seriously the representations made to us regarding this enforcement regime. In acting to regulate, we have needed to respond—

Baroness Crawley: Has the Minister any idea when BIS will conclude its review?

Baroness Williams of Trafford: I can let the noble Baroness know that in writing because I do not know when that will be.

In acting to regulate, we have needed to respond to a tight deadline, but at the same time we have made every effort to avoid placing unnecessary burdens. This House has been greatly assisted by everything that has been said during this debate. I hope that the noble Lord, Lord McKenzie, will feel able not to press the Motion.

Lord McKenzie of Luton: My Lords, I thank all noble Lords who have contributed to this short but very well-informed debate. On the proposition that there was limited time to consult, the letter of 2014 would at least have given some fairly clear indication to the Government that something was going to have to be addressed. Even taking June 2015 as the date when that opinion came through, we believe that there was time to consult and it would have been to the Government's advantage to have done so.

As for who these things apply to, my understanding is that it is necessary to produce energy performance certificates when all buildings are constructed, sold, or rented out, but that displaying such certificates is necessary for large public buildings. It seems to be at odds with the professionals' view that these regulations will force them to change their priorities. Is the Minister entirely dismissive of that view? This is a profession that received praise from my noble friend Lady Crawley. It has been doing this thing for a long time; it is extremely knowledgeable. Why would it advance the proposition that this will change its priorities and what it will do if that were not the truth? Does the Minister think that they are misguided or misled? Why is that proposition rejected?

Baroness Williams of Trafford: My Lords, I would not accuse the profession in any way of being misguided. As I say, we are open to taking further representations as time goes on.

Lord McKenzie of Luton: That is a very helpful reply. I think that the representations were to the effect that, if the profession is going to do this without extra resources, it will switch priorities. If the Minister says that its existing priorities will be preserved—if that is what it thinks is right with extra resources—then I think there will have been real purpose, or additional purpose, to this debate.

My noble friend Lord Harris spoke with passion and great knowledge on this issue and had some very relevant questions. He pointed to the 250 areas where trading standards have responsibility at the moment, asking what they should stop doing, in the Minister's view, if they are to take on these extra responsibilities. I refer the Minister to some of the debates that we have had on welfare reform and the issue that what gets counted, measured and reported is what has the focus of the Government, and local government, which is absolutely right. That feature will mean that there is going to be a change of emphasis. My noble friend Lady Crawley said that the focus on product safety, particularly at present, is absolutely right—a point supported by my noble friend Lord Harris. We know that the LGA does not support the current structure of EPCs being dealt with through trading standards.

The noble Lord, Lord Teverson, could not get overexcited about all these things, although my noble friend Lord Harris tried to encourage him to become so. This is not about denying the need to make sure that our buildings are energy efficient; we do all that we can to make sure that that happens. Again, as my noble friend said, what the regulations propose in terms of contributing to that is pretty small but, even with that, we are not denying the opportunity for them to be properly enforced. We are saying that, if they are to be properly enforced without skewing the other priorities of trading standards, resourcing is needed to achieve that.

We have had a good run through this. The clock is ticking but I am minded to test the view of the House on this.

9.44 pm

Division on Lord McKenzie of Luton's Motion.

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House adjourned at 9.55 pm.

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