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HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
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 22 February 2017

3 pm

Prayers—read by the Lord Bishop of Southwark.

National Health Service: Nurses
Question

3.06 pm

Asked by ***Lord Clark of Windermere***

To ask Her Majesty's Government what plans they have to eradicate the shortage of trained nurses in the National Health Service and care sector.

The Parliamentary Under-Secretary of State, Department of Health (Lord O'Shaughnessy) (Con): My Lords, this Government have undertaken work to increase the number of trained nurses. We now have a record number of nurses working in the NHS. By increasing the number of training places for both new nurses and nurses returning to practice, we continue to support the growth of our nursing workforce in the health and care sectors.

Lord Clark of Windermere (Lab): I thank the Minister for his reply but I cannot share his wing-and-a-prayer approach to the drastic shortage of nurses we face. Bearing in mind that the NHS alone is short of 24,000 nurses, and the 23% reduction in nursing applications as of this autumn, does the Minister not agree that they should reinstate the bursary scheme at university for nurses, or at least promise nurses who qualify and spend a number of years working in the health service that they will have their tuition fees reimbursed?

Lord O'Shaughnessy: I am sorry that the noble Lord takes such a negative view of the changes we are making. There are actually 6,500 more full-time equivalent nurses and health visitors than there were in 2010. There has been a 15% increase in the number of training places and of course, through our reforms which he just mentioned, we are taking the cap off the amount of training places that can be offered.

Baroness Gardner of Parkes (Con): My Lords, can the Minister tell us how the apprenticeship scheme is going, because a lot of damage was done when Tony Blair said that you had to have five A-levels to become a nurse? We hope that this apprenticeship scheme will counteract that.

Lord O'Shaughnessy: I am grateful to my noble friend for mentioning the nursing degree apprenticeship, which was announced at the end of last year. The first nurses should be in place from September of this year. Once established, this apprenticeship route could allow up to 1,000 additional nurses to join the NHS every year.

Lord Davies of Stamford (Lab): How many nurses currently employed in the NHS are citizens of other EU countries?

Noble Lords: Order!

Baroness Walmsley (LD): My Lords, are there any plans for post-qualification training grants for specialist nurses in some of the shortage areas, such as psychiatric nursing, and/or golden handcuffs to keep them in their jobs?

Lord O'Shaughnessy: The noble Baroness is quite right to raise the issue of retaining nurses and bringing them back into the profession. That is why, last year, to aid retention, there was an average 3% increase in pay for nurses. Health Education England has also introduced a return to practice campaign, which has brought 900 nurses back to the front line in the last three years.

Baroness Pitkeathley (Lab): My Lords, we hear constantly that better integration between health and social care is the way to solve the problems that both services are currently experiencing. What progress is being made with training nurses who can work across both health and community services?

Lord O'Shaughnessy: The noble Baroness makes a very good point. In fact, the workforce figures out today, which show the increases I have described, also show an increase in the number of nurses with general qualifications who are capable of working across multiple specialties and different sectors.

Lord Ribeiro (Con): My Lords, mindful of the fact that we have taken the decision to leave the European Union and realising that many of our nurses come from overseas, and more recently from Europe, surely the time to start increasing nursing numbers is now, to make sure that we deal with any shortfall that may come after 2020.

Lord O'Shaughnessy: My noble friend makes an excellent point. Currently, around 7% of nurses are EU nationals. There has not been a drop-off in the number of EU nationals joining the NHS workforce since the referendum; nevertheless, it is clearly sensible to reduce our reliance on overseas nurses each year. We are doing that through additional training places and through retention and return to work schemes.

Baroness Masham of Ilton (CB): My Lords, does the Minister agree that there is a shortage of district nurses, who are important in rural areas, and that many of them are coming up to retirement age?

Lord O'Shaughnessy: I thank the noble Baroness for making that point. The issue of retirement ages has come up previously in Questions, and I had a look at the profiling of nursing. It similar to the profiling of other healthcare professions and other public sector professions, so there is a weighting towards older age

[Lord O'Shaughnessy]
groups, but it is not an acute problem particular to nursing. The noble Baroness is quite right that there have been reductions in the number of district nurses, but there have also been increases in other kinds of nurses, particularly health visitors offering community services. There is some overlap in the kind of services they provide.

Lord Davies of Stamford: The Minister tried to answer my question in terms of percentages, but it would be nice to have the absolute number of members of the nursing profession currently in the NHS who are citizens of other EU countries. What measures are the Government taking to reassure these nurses that their contribution is strongly valued and that we want them to remain doing the excellent job they are now doing for the health of this country?

Lord O'Shaughnessy: In answer to the noble Lord's first question, I think the figure is 22,227 EU nationals, so I hope that satisfies him on that point. Of course, they do a fantastic job, as do all NHS and care staff, and they deserve the highest praise. The noble Lord will also know that we are keen to reassure them of their status as part of the EU negotiations, but, of necessity, that has to be a reciprocal arrangement.

Lord McColl of Dulwich (Con): Will the Minister support my attempt to find out what makes so many young nurses leave the profession?

Lord O'Shaughnessy: I thank my noble friend for that question. We should be looking at attrition rates in training and in the profession itself, and I would certainly be happy to work with him on that. I know he is particularly anxious about the turnover of nurses within certain training settings.

Lord Hunt of Kings Heath (Lab): My Lords, what is the current deficit that NHS providers are running in the health service? Can the Minister assure me that the NHS will actually have the money to spend on more nurses next year?

Lord O'Shaughnessy: I do not have to hand the figures the noble Lord asks for. He will know that the Government are putting in £10 billion over the five-year forward view period in order to support the world-class NHS that we all want to see.

Girl Effect: DfID Funding

Question

3.14 pm

Asked by ***Baroness Sheehan***

To ask Her Majesty's Government why Department for International Development funding to the non-governmental organisation Girl Effect has been withdrawn.

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, the International Development Secretary decided to end the partnership with Girl Effect following a review of the programme. Empowering women and girls around the world remains a priority, but she judged that there are more effective ways to invest UK aid and to deliver even better results for the world's poorest as well as value for taxpayers' money.

Baroness Sheehan (LD): My Lords, I thank the Minister for his reply. Popular culture is used to tackle difficult issues because it works. For example, many in your Lordships' House will be familiar with "The Archers". The storyline of domestic abuse endured by Helen Archer resulted in a 20% increase in calls to the domestic abuse helpline. The very popular Ethiopian girl group Yegna—dubbed the Ethiopian Spice Girls by the *Daily Mail*—reaches 8.5 million people and helps transform the lives of some of the hardest-to-reach and most disadvantaged girls in the world. Why, when faced by attacks from the *Daily Mail*, did the Secretary of State withdraw funding from this multi-A-rated DfID project?

Lord Bates: The decision was taken, as I mentioned earlier, because it was deemed that there were other things which it would be more effective to spend the money on. There is another programme operating in Ethiopia, End Child Marriage, which focuses more on the rural areas that the Girl Effect programme was not reaching, and was deemed to have more effect because it actually worked directly with the communities concerned. Although we will not continue to fund it, because we will be sending the money elsewhere, we hope that Girl Effect will continue. We acknowledge that it did some good work.

The Lord Bishop of Leeds: My Lords, was that judgment made after the *Daily Mail* had run its campaign or before?

Lord Bates: The review which took place was begun before that. We undertake reviews of how taxpayers' money is being spent to ensure that we get full value for money. That is very important, because if we did not do that, announcements such as that made by the Secretary of State this morning of £200 million in urgent humanitarian aid which will save millions of lives in Somalia and South Sudan would not be possible.

Lord Collins of Highbury (Lab): My Lords, I am sure the noble Lord appreciates that the *Daily Mail* story was a part of a general narrative to undermine the good effect that development can have. It is not just about humanitarian aid but about changing culture and making a secure world. Will he respond to the question I asked before? Will he ask the Prime Minister to put a full page article in the *Daily Mail* explaining why development creates a more secure and safer world?

Lord Bates: In many ways, I am sympathetic to what the noble Lord says. The Secretary of State wrote an op-ed piece this morning about giving that

£200 million of British taxpayers' money to those people in desperate need in South Sudan and Somalia, and it is very difficult to see where that is picked up. It is pointless criticising the media. We have the media we have because we are the people we are, and the truth is that the misspending, or ineffective spending, of potentially £4.5 million in Ethiopia is deemed more important by them than the £10 billion that we spend very wisely in saving lives around the world.

Baroness Sugg (Con): My Lords, women and girls are a key part of the sustainable development goals. Will my noble friend tell us when DfID will be publishing its strategy on a UK approach to the SDGs and how it will monitor progress?

Lord Bates: That is of course a very important part of SDG 5, which is specifically on gender balance, and the sustainable development goals do not just apply to other countries but to us as well. That is why we have been undertaking a review, across government, to see how the sustainable development goals are going to be impacted in this country, which is being done jointly with the Cabinet Office. We will be publishing Agenda 2030 very shortly to set out our plans in that area, and we will monitor them through the Office for National Statistics.

Lord Foulkes of Cumnock (Lab): My Lords, £200 million for famine in Africa is a welcome start. Will the Minister confirm that it is a start? Will he look at finding further money within our development programme? Will he talk to all the NGOs and get them mobilised? Will he, above all, get in touch with our partners in the European Union and make sure that they bilaterally and collectively get together? This is a major tragedy of famine in Somalia, in South Sudan, in Nigeria and elsewhere. Unless we get some concerted worldwide action, hundreds of thousands—millions—of people will die needlessly. Will he give that the top priority that is absolutely necessary?

Lord Bates: I will certainly do that. I absolutely agree with the noble Lord that this is a priority. So far this century, in the first 17 years, one certified famine has actually occurred. We now have one certified today in South Sudan, affecting some 6 million people; we have credible evidence that there will be three further—in Yemen, north-east Nigeria, and Somalia. That is why the help is urgently needed, because as the noble Lord rightly said, we cannot do this alone. We need the international community to come together to tackle this issue and that is exactly the plea which the Prime Minister and the Secretary of State made today.

Baroness Afshar (CB): To return to the initial question, are the Government aware that in many third-world countries, the divide between rural and urban is a false divide? The effectiveness of laws depends on urban women who fight for the rights of all women. Therefore to make a decision that something is not helping rural areas is a false decision.

Lord Bates: That is absolutely right—Ethiopia bears that example out. It has a very good law that says that the minimum marriage age is 18, but in many rural areas more than 50% of girls under the age of 14 are being married. We recognise that. Economic development, education and good healthcare and family planning are all part of this. We are helping on all of those fronts.

Baroness Burt of Solihull (LD): My Lords, research shows that girls in many developing countries consistently get passed over for, or denied access to, the services they need. Often it is negative, entrenched social norms about a girl's value that prevent girls accessing services such as immunisations and education. Does the Minister agree with me that cultural programmes like Yegna which aim to empower women and create new social norms are vital to ensure that no woman is left behind?

Lord Bates: I strongly agree with the first part of the noble Baroness's remarks. She is absolutely right. The only way that poverty will be eradicated is with economic growth and economic development. No country can have economic development if it leaves half its people behind. That is why you need education, family planning and economic development. We have been working on all of these. The Secretary of State was in Ethiopia last month, launching a new economic strategy which has women and girls at the very heart of it.

Benefit Cap

Question

3.22 pm

Asked by ***Lord McKenzie of Luton***

To ask Her Majesty's Government what estimate they have made of the extent to which the new lower benefit cap will encourage people into work or to move into smaller homes.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Henley) (Con): My Lords, the evaluation of the 2013 benefit cap showed that more households are looking for and finding work. Capped households were 41% more likely to enter work than similar uncapped households. The evaluation found that very few capped households moved house, and those who moved generally only moved short distances. Statistics show that people moving into work is the largest single factor in the benefit cap no longer applying.

Lord McKenzie of Luton (Lab): I thank the Minister for that reply but wonder if he has seen the recent report from the IFS which, in relation to the new cap, identifies that a larger number of smaller properties, both in and out of London, will now be affected; and its assessment that, on the basis of the earlier cap, there is little evidence that it helps move people into work or to smaller accommodation—indeed, I think fewer than 5% of those affected by the cap previously actually went into work. Is the Minister also aware of the report of the Chartered Institute of Housing? It forecasts that the new benefit cap will cut the benefit income of some 116,000 households, including 320,000

[LORD MCKENZIE OF LUTON]
children, by up to £115 a week. Is it not time for the Government to come clean and recognise that this is not about changing behaviours, it is all about saving money at the expense of some of the poorest in our society?

Lord Henley: My Lords, I totally reject what the noble Lord had to say. As he knows perfectly well, because he will have seen it, our evaluation that appeared in 2014 showed just what I said in my original Answer—they were some 41% more likely to go back into work than similar uncapped households. It also showed that 38% of those capped said they were doing more to find work, one-third were submitting more applications and one-fifth went on to make more interviews. That is why my right honourable friend made the announcement in last year's Budget of further changes to the benefit cap. In due course we will look for a further evaluation, which I look forward to showing to the noble Lord when it comes through.

The Lord Bishop of Southwark: My Lords, according to the Government's own impact assessment nearly a quarter of a million children are affected by the reduced benefit cap, more than two and a half times the number of affected adults. This includes many preschool children in lone-parent families at greater risk of poverty. Given that the prime aim here is to encourage more people into work, will the Minister consider exempting single parents with young children, who would not otherwise be expected to work under the current benefit rules and who rely on familiar social networks and services?

Lord Henley: My Lords, I accept one part of the right reverend Prelate's question: it is valuable for all concerned, particularly children, to live in households where all those who are likely to earn are in full-time employment. It is work that is the benefit to children. I can assure the right reverend Prelate that the number of children living in workless households is now at a record low. We have seen falls there; the number is down by more than 80,000 in the past year and well over half a million since 2010. We need to wait to see the evaluation of our further changes to the benefit cap before we make any further promises of the sort that the right reverend Prelate is seeking from me.

Lord Farmer (Con): My Lords, the Government made it clear during the passage of the Welfare Reform Act 2012 that the aim of the benefit cap was to achieve positive effects through changed attitudes to welfare. Beyond the employment statistics that we have heard today, are there any other signs of a shift away from a culture of welfare dependency towards a culture of work dependency?

Lord Henley: My Lords, I am grateful to my noble friend for highlighting that point, something ignored by noble Lords on the other side. Trying to get away from the culture of welfare dependency into a culture of work dependency is exactly what we are trying to do, and it is what we have achieved. That is why I wanted to highlight to the House—I could repeat it to my noble friend but I do not think that that is necessary—just what the 2014 evaluation showed. We will look for an evaluation of those further changes in due course.

Lord Kirkwood of Kirkhope (LD): My Lords, the Minister's undertaking to provide another evaluation subsequent to the 2014 evaluation is welcome, but I have to say to him that no one I have met outside the Government believes the assessment that was published in 2014 so he is going to have to work harder in future to secure the policy success that the Government are looking for. In the course of the next evaluation, will he look carefully at the sustainability of the work that clients achieve, the proportion of the case load that is moving into disability benefits and the proportion of the case load applying successfully for discretionary housing payments? The discretionary housing payment spend for the rest of this Parliament will be £1,000 million.

Lord Henley: I am sorry the noble Lord does not believe the evaluation that appeared in 2014. A very good evaluation it was, and it produced some very good figures that I do not think the noble Lord himself could question. I have quoted the figures from that evaluation and I will be able to produce further figures in due course when another evaluation appears. However, it is not just about changing the culture, although that is very important; it is also a question, as I am sure the noble Lord will accept, of fairness. We do not think it is right that those in benefit should be receiving incomes higher than those on average earnings.

Baroness Meacher (CB): My Lords, the lower benefit cap is just, of course, one of the many measures that the Government are using to reduce access to welfare benefits, as the Minister indicated in an earlier answer. Another is the repeated assessment of disabled people. Does the Minister believe that it is reasonable to reassess repeatedly people with brain injuries, for example, and life-long disabilities that will prevent them ever getting back to work? Will he assure the House that he will give his personal attention to this matter, with a view to bringing to an end this cruel procedure?

Lord Henley: I regret to say that the noble Baroness is going quite beyond the Question on the Order Paper, but I would be more than happy to write to her about that particular issue.

Prisons: Staff

Question

3.30 pm

Asked by ***Lord Beecham***

To ask Her Majesty's Government what steps they are taking to ensure the recruitment and retention of prison staff in private prisons, and prisons outside London and the South East.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, private providers are obliged to maintain sufficient staff to ensure that prisoners and staff are safe and secure. We monitor performance against measures specified in the contract. High application volumes are generally received for prison officer and other vacancies in prisons outside London and the south-east, most of which have relatively low levels of staff turnover.

Lord Beecham (Lab): My Lords, there are prisons outside the south-east that have acute staffing difficulties, such as Manchester, Liverpool and Leeds, where the problems have been exacerbated for some years by staff being sent on detached duty to southern jails. Will the Minister assure the House that the Government are addressing that issue? What assessment have the Government made of the impact of the new terms being offered to London and the south on recruitment by private prisons such as Birmingham and Northumberland, where already the low numbers of staff have led to serious, indeed shocking, incidents?

Lord Keen of Elie: As the noble Lord acknowledged, we have taken steps to improve the rate of recruitment in the south-east, and London in particular, by introducing a range of financial incentives. That is because in these areas there is considerable employment competition. That does not apply to the same extent in the north-east and north-west. Indeed, application rates in that part of the country are considerably higher than they are in the other parts of the country. Accordingly, it is not anticipated that these incentives, directed to particular areas where there are difficulties of recruitment, will have an adverse impact elsewhere.

Lord Cormack (Con): My Lords, should we not look again at the whole question of private prisons? There are many people who feel that the incarceration and looking after of prisoners is the duty of the state and should not be farmed out?

Lord Keen of Elie: I am obliged to my noble friend. The state has many duties and obligations, many of which are successfully contracted out to independent contractors, as they are in the case of prisons.

Lord Wigley (PC): Will the Minister tell the House about the position of recruitment for the new prison, HM Prison Berwyn in Wrexham, north east Wales, which is not a private prison? Will he say how recruitment is progressing and to what extent that is being met by transfers from within the system and by recruitment from outside the system?

Lord Keen of Elie: As I understand it, recruitment at the new prison is progressing in a satisfactory way and will be done in a staged manner. We will not, of course, suddenly introduce a large number of prisoners into a new prison at one time. I do not understand that there has been any need to recruit from elsewhere within the prison establishment, but I recognise that there are difficulties across the prison establishment, not only with recruitment but with retention of experienced officers. Of course, we are always looking at ways to innovate and deal with that matter. Indeed, the noble Baroness, Lady Walmsley, mentioned the possibility of golden handcuffs—which might be particularly appropriate in the case of prison officers.

Lord Marks of Henley-on-Thames (LD): My Lords—

Baroness McIntosh of Hudnall (Lab): My Lords—

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, we will hear from the Labour Benches and then the Liberal Democrats.

Baroness McIntosh of Hudnall: My Lords, can the Minister tell the House how long prison officers are trained for and what are the core skills and competences which they are expected to have at the end of that training?

Lord Keen of Elie: I am not in a position to give details on the scope of core skills, but I undertake to write to the noble Baroness setting them out. I understand that there is an initial training period of five weeks—but, again, I will seek to secure confirmation of that and, if I have to correct it, I will again write to her on that point. I will add that, once prison officers are trained, there is a process of mentoring once they begin full-time engagement as a prison officer.

Lord Marks of Henley-on-Thames: My Lords, in HMP Northumberland, which is run by Sodexo and was exposed recently by "Panorama", there was a 40% drop in staff from 2010 to 2013, and numbers have continued to fall since Sodexo took over in 2013. What specific requirements does the department impose on contractors in relation to staffing levels and training in private prisons, and do the Government have any plans to make those requirements more rigorous?

Lord Keen of Elie: The position with regard to private prisons is, as I indicated before, that private providers are contractually obliged to maintain a sufficient level of staff to ensure safety and security within the prison, but particular numbers and ratios are not specified by the Government in those contracts. Those contracts are of course monitored.

Lord Ramsbotham (CB): My Lords, can the Minister tell the House how many reserve prison officers have been recruited, from the proposal made by the previous Government's Chief Secretary?

Lord Keen of Elie: My understanding is that the number is very low indeed—potentially in single figures.

Lord Lexden (Con): Does my noble friend agree that the vital work of prison officers is powerfully reinforced by voluntary initiatives such as that recently launched by the SPCK to raise literacy significantly among prisoners?

Lord Keen of Elie: Clearly, the primary function of our prisons is education and reform, which is why we look at prisons not in isolation but in the context of a further social need to ensure through-the-gate services for prisoners.

Criminal Finances Bill

First Reading

3.37 pm

The Bill was brought from the Commons, read a first time and ordered to be printed.

Digital Economy Bill

Report (1st Day)

3.37 pm

Amendment 1

Moved by ***Lord Mendelsohn***

1: Clause 1, page 2, leave out lines 4 and 5 and insert—

"(2B) The universal service order must specify that the target for broadband connections and services to be provided before 2020 must have—

(a) speeds of 2 gigabits or more;

(b) fibre to the premises (FTTP) as a minimum standard;

(c) appropriate measures to ensure that internet speed levels are not affected by high contention ratios;

(d) appropriate measures to ensure service providers run low latency networks.

(2BA) The universal service order must specify as soon as reasonably practicable that, by 2020, the following will be available in every household in the United Kingdom—

(a) download speeds of 30 megabits per second;

(b) upload speeds of 6 megabits per second;

(c) fast response times;

(d) committed information rates of 10 megabits per second;

(e) an unlimited usage cap.

(2BB) In meeting the obligations set out in subsection (1), internet service providers have a duty to ensure that their networks offer at least the minimum standards specified in subsection (2BA) to every household in areas of low population density, before deploying their networks in urban areas.

(2BC) The Secretary of State must ensure that—

(a) the premises of small and medium-sized enterprises are prioritised in the roll-out of the universal service broadband obligation;

(b) rollout of universal service broadband obligations is delivered on a fair and competitive basis.

(2BD) The universal service order shall, in particular, say that mobile network coverage must be provided to the whole of the United Kingdom."

Lord Mendelsohn (Lab): My Lords, I am pleased to move Amendment 1 in my name and that of my noble friend Lord Stevenson of Balmacara and the noble Lords, Lord Fox and Lord Clement-Jones. I thank Ofcom for its helpful advice and clear and comprehensive responses to our questions, as well as the excellent documents it has published on the matter. I also thank the Minister for his willingness to listen. I hope he appreciates that we have also listened carefully. We have not moved amendments that, while touching on important aspects of broadband policy and its delivery, are not appropriate for the Bill.

These amendments are about making the universal service obligation meet the Government's objectives and should rightly appear on the face of the Bill. We provide for further definition to be placed as was originally planned in regulations after this Bill, but they provide the correct framework to set them out properly. Placing these limited areas on the Bill ensures that the universal service obligation provides an operable legislative framework and mixes the right amount of direction, constraint and enabling. In short, these amendments set a floor for the USO; they create the means to ensure that progress can be properly monitored and reported, and they provide an aspiration to ensure that the universal service obligation helps to set a direction and does not become a limiting factor.

Amendment 1 makes a series of changes to the Bill. It places the universal service obligation for broadband on the face of the Bill and sets the following conditions: a target for broadband connection speeds of 2 gigabits or more; a minimum standard of 30 megabits download speed; that rollout must be rural and SME-focused; a requirement on the Secretary of State to ensure fair competition; and a universal service obligation for mobile coverage. In proposing the introduction of proposed new subsection (2BA) we ensure an explicit commitment to the initial, universal service obligation download speed of 30 megabits.

The case for this is made most strongly in Ofcom's technical advice to the Government on the broadband universal service. Its evaluation of three options is carefully written but it essentially puts the Government in a tough spot. It is clear that the only option that meets all the requirements is scenario 3, with download speeds of 30 megabits and upload speeds of 6 megabits, and other aspects which are all in the amendment. But given that it will remain a question of cost it leaves the Government to introduce that constraint. However, here is where the report is most valuable. Detailed work by Ofcom and its consultants suggests that the worst option, scenario 1, will cost £1.1 billion; scenario 2 —which is also 10 megabits, with a couple of frills—will cost £1.6 billion; and scenario 3 will cost £2 billion. Crucially, the costs per household resulting from the economies of scale provided by option 3—the option which provides for 30 megabits download speed and 6 megabits upload speed—move down from scenario 1 and are almost the same as scenario 2. The economic case for an additional £800 million is extraordinarily well justified.

It is also clear that in defining what decent broadband is, the report indicates that 10 megabits will not be sufficient. It argues that this may be sufficient today, but not by the time the USO is proposed to be delivered. Even if it is possible that data usage might not require any more—a point that it says is unlikely, even when the technology gains in compression and transmission

techniques—other issues such as contention rates and latency would render 10 megabits unfit for usage in a very short time. The best the report can muster in defence of a 10 megabits download speed is that if it were adopted it would have to be reviewed almost immediately. The case is compelling and it is economically justified—I look forward to the Minister's agreement on this.

Proposed new subsection (2BB) suggests that the rollout prioritises that the universal service obligation needs to be met in areas of low population density before providers can deploy their networks in urban areas. This ensures that the economic models encompass the entire economics of a rollout rather than cherry picking the most profitable parts, which inherently leads to the outlying parts becoming uneconomic and uncommercial. This also ensures that the government funding is most efficiently employed in meeting the right outcome. During Committee I outlined the well-known German example of how to tender on an outside-in basis in relation to the mobile market, and how companies which said that it was uneconomic here were able to produce and deliver commercial models in Germany. It is not therefore a surprise that this model is used more widely now as a template to modify, and it would improve the universal service obligation for us to do so as well.

Proposed new subsection (2BC) places a duty on the Secretary of State to ensure that the market is sufficiently structured to benefit from all the advantages gained by competition, and to make sure that there is some focus in ensuring that the needs of SMEs are properly addressed. It is clear that while they are demand-led, without some explicit focus, their needs will not be adequately addressed.

Proposed new subsection (2BD) introduces mobile network coverage into the umbrella of the universal service obligation. This reflects the current patterns of consumer and citizen behaviour, and the increasing use of mobiles as the growing means—particularly in younger demographics—of accessing all sorts of digital and other services. Ensuring that social exclusion is properly met requires embracing mobile requirement, and this can be easily met by addressing the 5G tendering through the German process, or even limited forms of roaming.

3.45 pm

Proposed new subsection (2B) in our amendment is the one area where we have tried to help provide a degree of direction and ambition to ensure that the architecture of the USO is not constrained but is entirely consistent with the Government's productivity plan, the industrial strategy and the national infrastructure plan. The argument that the USO is not the place for this is holed beneath the waterline. Without some ambition the USO itself becomes a constraint on all these important challenges.

While the Government have introduced some measures to try to move policy along, and some have been very interesting and innovative, the very introduction of the universal service obligation is an acknowledgement that they have not, and will not, work. Without the elements in this amendment, the Bill will add to that list of tinkering without success. I beg to move.

Lord Fox (LD): My Lords, I associate myself with, and support, Amendment 1. The noble Lord, Lord Mendelsohn, covered it comprehensively and I do not want to go over the same territory.

In his opening speech in Committee, the Minister correctly hung his hat on delivering world-class digital connectivity. We can all subscribe to that. There was no doubting the mood of noble Lords in Committee, and certainly no doubting the mood of the country given that we are some distance from being world class in that regard. The objective of this amendment is to help move us along that road. At the time, the Minister associated the Government with the gigabit objective of the noble Lord, Lord Mendelsohn, while firmly ruling it out as a USO objective. The Minister has the notion that we should rely on Ofcom to set the target, that we should rely on a public consultation, and that, eventually, a USO will emerge. In the Minister's view, this House is not expected to advise Ofcom on where that USO should be set. We disagree with that, because, once the USO is established, it will be trimmed, edited and manipulated. Then, no doubt, the debates will begin among the service deliverers about what exactly the USO means.

We have already seen the length and byzantine nature of the debate that can unfold when Openreach and BT start to discuss matters. We have only to look at the protracted ownership debate that continues unabated. That lengthy discourse will lead only one way; it will trim and pull back from whatever USO Ofcom establishes. For this reason we believe that Ofcom's hand needs to be firmed up. It needs support and we must strengthen its hand in dealing with what is essentially a monopoly and very experienced public sector supplier. Therefore, this amendment is designed to support Ofcom to take the steps needed on the way to delivering the world-class digital network to which we aspire. That is why we think it should be accepted.

Proposed new subsection (2B) in the amendment contains a medium-term objective which the Minister has endorsed. We need to move towards gigabit connectivity. That will drive increased fibre-to-the-premises connection. Proposed new subsection (2BA) sets a difficult yet achievable goal for 2020 which Ofcom itself has modelled, as the noble Lord, Lord Mendelsohn, set out. It is important to have both those objectives because one can be the enemy of the other unless they are both included in the Bill. We cannot second-guess the country's future need but we can be certain that it will be more than 10 megabits. We must be in a position to assist Ofcom in establishing a USO that can begin to deliver the needs of this country. It is for that reason that we support Amendment 1.

Lord Wigley (PC): My Lords, I declare an interest immediately, because in both my household and my neighbour's household we have had immense problems in securing adequate speeds. I referred at earlier stages to some of these difficulties.

I very much support both Amendments. Amendment 1 states that,

"by 2020, the following will be available in every household",

and the list includes,

"download speeds of 30 megabits per second".

[LORD WIGLEY]
This is absolutely necessary, because under the present provision, the providers just are not willing to do that. They are willing to rest their case on the fact that it is too expensive to run the necessary connection to a household, not just in far-flung rural areas but in conurbations and villages. I am within half a mile of the main exchange and within 200 metres of a box. However, because of the way they have laid out the connectivity sequence, we cannot get decent speeds. It is irritating that the excuse can be used that it is too expensive to provide a connection.

I assume that if there was a legislative requirement along the lines laid out in the proposed new subsections in Amendments 1 and 2, that would be overcome. If the Government are not willing to accept these amendments, I would be interested to know what response they would give to people who are facing this difficulty. It is not a technical impossibility, just too expensive. I was on the committee which dealt with the privatisation of telephones, with the late John Golding and others—it took a considerable amount of time to go through—and assurances were then given that of course, the responsibilities that had been on public bodies would be continued. I accept that, to a large extent, BT has done that. However, safeguards are needed, particularly in rural areas, and I would be grateful if the Minister said how he will cover that if he cannot accept these amendments.

Lord Maxton (Lab): My Lords, I fully support these amendments, although they use the term "United Kingdom". I would like the Minister to say what powers the Scottish Parliament in particular and the other devolved Parliaments have in this matter. BT has a monopoly on laying the cables, but it often has to do it down roads and across private land, particularly if no telephone line already exists. Some 90% of the islands that are a part of the United Kingdom are off Scotland's shores, and BT has to lay cables right the way across the sea—and at the moment, they are telephone cables, not high-fibre cables. What is the responsibility of the Scottish Parliament and the other devolved Parliaments in all this?

Lord Mitchell (Non-Afl): My Lords, I too support these amendments. At each stage of the Bill in your Lordships' House, I felt terribly frustrated by the Government's lack of ambition. I said in Committee and on Second Reading that the gigabyte should be king. According to something I read a couple of days ago, in 10 years' time 50 billion devices will be connected to the internet worldwide. This country will account for some 8% to 10% of that—4 billion or 5 billion devices. We have to have the gigabyte capability in this country to deal with such massive growth. The Government's response to something so crucial to our nation's development is meagre, and I hope they and the Minister will reconsider.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, I thank the noble Lord, Lord Mendelsohn, for his attention and for meeting us. I also thank noble Lords from the Lib Dem Benches. We have had interesting discussions and I think that they have been beneficial on both sides. I will apply that to the rest of the day's proceedings so that we do not waste time being nice to each other for the rest of the day.

Amendments 1 and 2 seek to include a series of additional specifications on the broadband universal service obligation, all of which were discussed in Committee. Noble Lords, during the course of the Bill and already today, have commented on the Government's lack of ambition. Let me say straightaway that the Government share the ambition for widespread availability of fibre-to-the-premises connections. More extensive fibre connectivity is crucial to the UK's future digital economic growth—we agree on that. But the UK's fibre market is still at an early stage of development. The Government want to encourage the market to do more to deliver fibre as widely as possible and we are already taking steps to drive FTTP deployment. In the Autumn Statement we announced more than £1 billion to support digital infrastructure, targeted at supporting the rollout of full-fibre connections and future 5G communications. Where we differ crucially is that we believe that it would not be appropriate for the universal service order to include a target for FTTP connections. Let me be absolutely clear why this would be a mistake.

I remind noble Lords that the regulatory regime for electronic communications is shaped by four European directives, adopted in 2002 and implemented in this country through the Communications Act 2003. Amendments 1 and 2, if they are to achieve what the noble Lord, Lord Mendelsohn, and others are seeking, must be consistent with this legal framework: in particular, the universal service directive. I struggle to see how a target for a 2 gigabits per second USO could possibly be compliant with EU law. First, the purpose of universal service requirements in the EU directive is not to force the development of a nascent market, such as the UK's fibre market, but to ensure that a baseline of services is made available to all users where market forces do not deliver this. The USO is a safety net to prevent social and economic exclusion, not a statement of ambition: we are setting the minimum, not the maximum. This amendment is upside down, placing a ceiling on ambition rather than acting as a safeguard for those less well served by communications providers.

Secondly, the EU directive requires us to consider cost. Universal fibre to everyone's door will be expensive as FTTP coverage is currently low. According to Ofcom's latest *Connected Nations* report, only approximately 1.7% of UK premises have access to FTTP services. So clearly it would be very expensive to address this in the short term.

The recitals to the universal service directive indicate that any change in the scope of universal service,

"should be subject to the twin test of services that become available to a substantial majority of the population, with a consequent risk of social exclusion for those that cannot afford them".

I have already explained that fibre to the premises is available to less than 2% of UK premises. This is far from a technology available to a "substantial majority" of the population. Furthermore, under the directive, connections provided under a broadband USO should be capable of supporting,

"data communications, at data rates that are sufficient to permit functional Internet access, taking into account prevailing technologies used by the majority of subscribers and technological feasibility".

It may perhaps be argued that a sensible level of universal service for today should nevertheless be delivered using only fibre to the premises so as to be future-proof. But again, this suggestion would not be compliant with EU law. The directive requires that universal service be implemented using,

"the most efficient and appropriate approach",

which is also proportionate and minimises market distortions. To require fibre-to-the-premises connections capable of 2 gigabits per second would clearly not be the most efficient way of delivering for today's needs and would in fact cost many billions of pounds.

4 pm

Both Amendments 1 and 2 would require the USO to specify that a superfast broadband connection will be available in every house by 2020. I am afraid that I cannot make such a commitment now, and it would not be right to do so. All the scenarios set out in Ofcom's report are currently being given careful consideration. Once that work is completed there will be a public consultation on the design of the USO. These amendments would remove the need to consult by setting the USO requirements in stone. I have not been in this House very long but I cannot remember many times when the Opposition asked the Government not to have a consultation when they had already offered to have one.

Whatever appropriate minimum speed is set, the Government are clear that this will need to be increased over time to ensure that it keeps pace with consumers' evolving needs. Once introduced, it will fall to Ofcom to monitor the broadband USO on an ongoing basis to ensure that it is effective in meeting the needs of customers.

Amendment 1 goes on to require the designated universal service provider to roll out in rural areas of low population density before deploying its network in urban areas. I do not think that would be appropriate. I know that there are rural consumers struggling with slow broadband speeds, as the noble Lord, Lord Wigley, mentioned—as have I in previous debates—but their needs are not dissimilar from those of consumers in urban areas who also have slow broadband. For urban customers on exchange-only lines, for example, the costs and civil engineering challenges can be significant, which is why they have not been included in commercial rollouts. As such, they should be treated the same. The USO is being introduced specifically to target those areas where commercial providers have not provided, and are unlikely to provide, connectivity, be they in rural or urban areas. Do we really think that social exclusion in rural areas is more important than social exclusion in urban areas? Surely we should tackle both.

Amendment 1 also requires SMEs to be prioritised in the rollout of the broadband USO. We agree that SMEs are crucial to the UK's economy, and many SMEs are benefiting from the continuing rollout of the Government's superfast broadband programme. Some local authorities have introduced SME voucher schemes and today Herefordshire, Gloucestershire, Shropshire and the Borough of Telford and Wrekin have launched a business broadband voucher scheme with grants of up to £25,000 for the installation of superfast broadband. Businesses with speeds of less than two megabits per second can also apply for a grant under the better broadband subsidy scheme, which will provide a connection of at least 10 megabits per second.

It is in areas not served by commercial or publicly funded programmes that the broadband USO will have an important role—particularly rural areas. The extent to which SME connectivity can be prioritised under the USO will, however, depend on two things: the impact it has on the cost of delivering the USO; and whether SMEs request a connection.

Amendment 1 further requires the rollout of the broadband USO to be delivered on a fair and competitive basis. The requirements of the universal service directive dictate that the process for designating a universal service provider should be fair and open and that no one is excluded. The requirements of the directive are reflected in Section 66 of the Communications Act. We therefore do not believe that this part of the amendment is needed.

Finally, Amendment 1 specifies a USO for mobile. The universal service directive currently provides the regulatory framework for a broadband USO and, whilst it is dependent on the design of a broadband USO, there is scope for the USO connection to be provided using mobile technology such as 4G. But the directive only covers connections at fixed locations; it does not include mobile coverage. The EU Commission has regularly reviewed the scope of the USO and whether it should be extended to include mobile. The conclusion of the last review under the current framework was that the competitive provision of mobile communications had resulted in consumers having widespread, affordable access to these services so that there was no risk of social exclusion, and therefore no need for it to be included in the USO.

In summary, the amendment transgresses the EU directive, creating a law that would collapse on the first legal challenge; it creates an inflexible regulation, placing inappropriate detailed specifications on the face of the Bill; it may well be unachievable; and it implies that deprivation of an essential utility in rural areas is more important than in urban areas.

Many of us are frustrated by the difficulties faced by people with inadequate connectivity. For many, this debate is coloured by their own experience. The Bill is carefully designed to tackle these long-running issues, building a safety net so that no one is left behind.

I will finish by suggesting to noble Lords that if we pass this amendment today, while we may go home satisfied that we have publicly stated our ambition to do better, we may also set back progress. We will delay the implementation of the USO that will bring change, and we will feed frustrations and fuel anger among the final 5%. With that, I hope that noble Lords will not press their amendments.

Lord Mendelsohn: My Lords, I thank the Minister for this comments at the beginning, although I thought we were nice to each other all the time. I also thank him because I am now slightly encouraged by the strength of our position, due to his retreat towards the idea that it is in some way a contravention of EU law. He has his lawyers, we have ours, and commercial

[LORD MENDELSOHN]
organisations also have lawyers who tend to agree with us that this is an obstacle and that EU directives are against it. This may not be an argument for long, but for now I am encouraged by that being the Minister's defence.

I thank the noble Lord, Lord Fox, for an excellent speech. I also thank the noble Lord, Lord Mitchell, for his very good point about the number of devices, the consequences of the internet of things and other matters and how they will affect what we are establishing as the USO. I was told a curious fact: there are now more phones in the world than toothbrushes. We are now looking at a world where the importance of providing the right level of capacity is essential.

I thank the Minister for his reply, but I find I am in rather an invidious position. I feel as though I am arguing the Government's case in the face of determined opposition. The core rationale for the construction of the amendments is based on the Government's own *Broadband Delivery Programme: Delivery Model* as published in September 2011, outlining their policy and goals for their operating arm, Broadband Delivery UK. I shall quote one sentence from the report. In relation to what has to be delivered for the customer by 2021, it says:

"Everyone able to access 30Mbps capabilities. 50% to access 100Mbps capability".

So with one addition—the establishment of a gigabit target, which was not so predictable at that time—the amendments seek no more than the Government's own targets, which they themselves have given up on. It seems that they are caught by the failures of the market structure and are unable to address those adequately, being somewhat constrained by the pension fund deficit. The amendments are not outlandish; they are a conservative defence of the Government's goals. They are about making a policy fit for the future, rather than one fit for the past.

The Minister seems to make the case for the future but is not prepared to deal with the consequences by addressing and amending the USO on the face of the Bill. The USO is being established to address the problems of social and economic exclusion, particularly for those in rural areas and those who are vulnerable. The USO's construction has necessarily been shaped with the imperfections of a market structure that has succeeded in getting us on a journey but is inadequate to address current or future technology. It is consistent with the Government's desire to propose reasonable rather than wholesale change.

The amendments do not drive market change; they follow it. They would make sure that the current list of proposals did not limit the capacity of the market to constrain predictable and certain changes. They recognise the problem that the UK has with low levels of fibre but would not restrict the market's capacity to limit competition and distort choice so as to maintain such a low level. At the minimum we would have hoped that the Minister would be forthcoming on the issue of speed.

In view of the certain negative consequences of the Bill as currently drafted, I wish to test the opinion of the House.

4.09 pm

Division on Amendment 1

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Amendment 1 agreed.

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4.23 pm

Amendment 2 not moved.

Amendment 3

Moved by ***Baroness Janke***

3: Clause 1, page 2, line 5, at end insert—

"(2BA) If the universal service order says that broadband connections and services must be provided to any extent, it must require the provision of a social tariff for broadband services which has the aim of preventing digital exclusion."

Baroness Janke (LD): My Lords, on this side of the House we are concerned about the whole issue of affordability. With the universal service obligation, we need to recognise that many people who would very much benefit from having access to broadband will not be able to afford it. I am speaking about low-income communities and communities with interests, such as people on pensions, or those who have a need to use broadband more so than others, such as the disabled. It is important that some form of social tariff is introduced. In Committee, the noble Baroness gave a very encouraging response to this amendment. I think she referred then to a report from Ofcom that recommended the introduction of a social tariff. In moving the amendment again, I would like some assurance that this is a concrete proposal rather than an aspiration. I hope the noble Baroness will be able to assure me of that and I beg to move.

Lord Fox: I shall speak to Amendment 4. When an amendment along similar lines was debated in Committee, the Minister rightly noted that we were in danger of mixing our drinks with some USO and some non-USO measures clustered together. That is why I accepted the Minister's advice and have separated the USO and left it in the Ofcom section of the Bill. This amendment covers the non-Ofcom measures. I am sure that as I have taken the Minister's advice to frame the amendment in this way, he will be persuaded that there is something to be gained from the transparency that these measures will give and will back up his relatively supportive comments about the importance of driving public acceptance and helping people to understand what they can get from broadband by measuring those efforts and reporting them to Parliament. On that basis, I am sure the Minister will be only too willing to include this amendment in the Bill.

Lord Ashton of Hyde: My Lords, that was encouragingly short. I thank noble Lords for their amendments. The noble Baroness, Lady Janke, proposed that any broadband USO must require the provision of a social tariff for broadband services. As my noble friend Lady Buscombe noted in the debate in Committee, when Ofcom was commissioned to provide advice to the Government on the design of the broadband USO, we specifically asked it to consider a social tariff to ensure that the USO is affordable for all.

The Government are presently considering Ofcom's technical analysis, which was published on 16 December, and will publish a consultation on the detailed design of the USO. In relation to a social tariff, Ofcom noted that a social tariff might be appropriate but did not provide any indication of the costs involved and said that more work is needed. I confirm to the noble Baroness that we are sympathetic to the need for a social tariff, but it is absolutely right that further work is done first. I will briefly explain why.

First, we have a highly competitive broadband sector that delivers low prices. Bargain-basement broadband is readily available in the UK, and many people on lower incomes do not use fixed lines for their connectivity needs, preferring to rely on mobile. The ONS reports that more people use mobile phones to access the internet than any other medium.

Secondly, social tariffs work by cross-subsidy. The majority of users who pay the standard rate subsidise the beneficiaries. It would be irresponsible to force these costs on to consumers before we knew how much they are.

Thirdly, if we want a social tariff, do we want to use the USO to deliver it? That would impose the cost on the universal service provider. It might be better, for example, that the social tariff be required from all providers. I would therefore be concerned if we included a specific requirement for this in primary legislation now. However, I hope the noble Baroness will be happy with the assurance that I have given on this. We do not want it to be a source of unnecessary risk at the moment.

I turn to Amendment 4 and the noble Lord's encouraging words trying to lead me in the direction he wants. I am afraid that at the moment, for a variety of reasons, we do not think that there is a need for such a reporting requirement. In relation to paragraph (a) of his proposed new clause, as I noted in Committee, it will be crucial to monitor progress in implementing the broadband USO. It is an important consumer measure but the reporting requirements should be decided once the design of the USO has been finalised, and not before. That will be done later.

The matters covered in paragraphs (b) and (c), regarding the percentage of premises connected via fibre to the premises, are already reported annually through Ofcom's *Connected Nations* report. Paragraph (d) proposes reporting on measures taken to increase take-up of superfast broadband. This would largely repeat current reporting by Ofcom and the DCMS's annual report.

Paragraph (f) proposes annual reporting on the number of community schemes set up each year and the level of subsidy required to achieve this, but there is no government-led community broadband programme, so we do not think there is any point in this reporting requirement.

On paragraph (g), we agree that it is important to ensure that consumers know their rights, particularly when it comes to switching. The Bill includes a number of provisions aimed at making it easier for consumers to exercise those rights, from making explicit Ofcom's powers to set switching conditions and to require payment of automatic compensation, through to easier access to the information needed to make better decisions. The Bill's measures are testament to the Government's ambition to ensure that consumers are informed and empowered.

Finally, I would add that the Government will be publishing a consumer Green Paper in the spring, which is almost upon us, which will review where markets may not be working for all. With that explanation, I would be grateful if the noble Baroness could withdraw her amendment.

4.30 pm

Baroness Janke: I thank the Minister for his response. In relation to the findings of the Ofcom report, I note that he mentioned that many people in poorer communities use mobile phones. In fact, that is much more expensive, and very many of them end up running up large bills and in debt, so I hope that much more work will be done on this project. One of the reasons I am keen on this is the whole area of smart data. My own city is a smart city, and the ability to use energy, for example, at competitive rates and the ability to engage communities with smart energy plans and awareness of the usage and cost of energy seem to me to hinge on the whole issue of affordability. I know people in my city who would be very pleased to work with the Minister on this, and I can provide him with their names and the work that has already been done. I look forward to hearing the outcome of further work, and I hope the Minister will inform me about it.

On behalf of my noble friend Lord Fox, I would say that, again, accountability and transparency are important issues, as is how effectively and efficiently this work will be rolled out, and I hope that ways of measuring and assessing that will also be provided in the light of previous performance. Having said that, I beg leave to withdraw Amendment 3.

Amendment 3 withdrawn.

Amendment 4 not moved.

Amendment 5

Moved by ***Lord Clement-Jones***

5: After Clause 2, insert the following new Clause—

"Bill limits for mobile phone contracts

(1) A telecommunications service provider supplying a contract relating to a handheld mobile telephone must, at the time of entering into such a contract—

(a) allow the end-user the opportunity to place a financial cap on the monthly bill under that contract;

(b) allow the end-user to switch (at no extra charge) to another provider, which meets the specified standards or obligation as provided for in section 3, or to deem the contract to have been terminated by a consistent breach of the standards or obligation as provided for in section 3;

(c) allow the end-user to switch mobile providers according to rules set out by OFCOM in accordance with the following principles—

(i) that switching must be free to the consumer, unless the consumer is aware of and has consented to fair and reasonable restrictions and charges to do so;

(ii) that the switching process itself must be quick, and on an agreed date;

(iii) that consumers must have access to their consumption or transaction data, and this must be in a format that can be easily reused and they must be able to authorise third parties such as comparison sites to access their data to help them to switch;

(iv) that sites and tools providing comparisons to consumers that receive payments from suppliers must make clear where the payments affect the presentation of results; and

(v) that there must be an effective process for consumers to receive redress if there are any problems with the service.

(2) A telecommunications service provider under subsection (1) must not begin to supply a contracted service to an end-user unless the end-user has either—

(a) requested the monthly cap be put in place and agreed the amount of that cap, or

(b) decided, with the decision recorded on a durable medium, not to put a monthly cap in place.

(3) An end-user may, after the start of the contracted service—

(a) contact the service provider to require a cap to be put in place and agree the amount of that cap, or

(b) require a cap to be removed, with the requirement recorded on a durable medium.

(4) The end-user should bear no cost for the supply of any service above the cap if the provider has—

(a) failed to impose a cap agreed under subsection (2)(a) or (3)(a); or

(b) removed the cap without the end-user's express consent, provided on a durable medium as required under subsection (2)(b) or (3)(b)."

Lord Clement-Jones (LD): My Lords, Amendment 5 is an enhanced version of Amendments 14 and 15 in Committee, which the noble Lord, Lord Stevenson of Balmacara, introduced, but it includes additional principles that I raised and which were contained in the Government's 2016 paper *Switching Principles: Government's Response and Action Plan*. It deals with two issues very close to the interests of consumers: billing and switching. As the noble Lord, Lord Stevenson, said in Committee, mobile phone billing is,

"one of the most complicated areas of domestic expenditure".—[*Official Report*, 31/1/17; col. 1145.]

There may be, in particular, some danger of vulnerable customers getting into difficulty and it should be possible for a consumer to set a cap on expenditure on their mobile phone.

As my noble friend Lord Foster pointed out in Committee, most mobile phone contracts are similar to credit card contracts, in that,

"they are a credit agreement, paying retrospectively for services that have been received. Yet with the credit card, of course, a limit is imposed upon you, which is not currently the case with mobile phones".

He cited evidence from Citizens Advice that,

"in 2014-15 it helped no fewer than 27,000 customers who had problems with mobile phone debts".—[*Official Report*, 31/1/17; col. 1147.]

He reminded us that Ofcom alerted us to this problem five years ago and proposed that it could be addressed

[LORD CLEMENT-JONES]
by mobile service providers offering an opt-in cap to their consumers. The remainder of the amendment would give explicit power to Ofcom to set the gaining provider-led switching rules, which we all want to see, and sets out the principles which the rules must follow—the very principles which the Government themselves have set out.

We would like to see both these aspects enshrined in primary legislation. In her reply to these amendments in Committee, I am afraid that the Minister—the noble Baroness, Lady Buscombe—was not convincing when she talked of providers offering apps, warning text messages and the like to manage usage, the Government's expectations for providers to manage bill shock, and of course the guidance issued by Ofcom, which I am sure every consumer reads avidly. That is not enough in this day and age. This is not a draconian requirement. This is a voluntary, opt-in capping system that is being proposed.

As regards switching, the Minister said that Ofcom was being given the necessary powers by Clause 2 and had an existing overarching duty to consumers. This is a much more explicit duty. It also ensures that the Government's own principles are enshrined in a duty to make rules, which the Minister, however, could not assure me were the ones in contemplation by Ofcom. I hope that the Government will welcome this carefully thought-through amendment as being very much in the interests of consumers when mobile phone usage is, if anything, even more important than broadband. I beg to move.

Lord Mendelsohn: My Lords, I support the amendment and thank the noble Lord, Lord Clement-Jones, for an outstanding summary. In relation to caps, it is important to understand the consequences of bills which cause stress to people in particular circumstances, and why this is another part of ensuring that we have the right social impact in such policies. Mobile phones are not luxury products. Actually, low-income households are more reliant on their mobile phones than other households: they are five times more likely to be mobile-only—that is, no landline or broadband—than the highest earning groups. The major cause of mobile phone debt is unexpectedly high bills which are usually caused by consumers using services not included in their standard monthly tariffs—very frequently with no real conception about how the complexity of the tariff has an impact on their bills. These unanticipated bills can make it harder for consumers to budget, especially if they are on a low income. Unexpected bills can exacerbate a consumer's debt problems. Citizens Advice reports that 70% of its clients who receive mobile phone debt service also receive advice on other debts. The consequences are significant and only these measures outlined in this amendment will in our view have the impact to address this problem. In other ways, complicated information and other consequences will limit the capacity of people to manage their debts.

I must confess that I think ensuring roaming capacity —not a national roaming programme—for those people in the absence of service in order to increase their ability to access mobile services is a terrific idea. I thought it was a very good idea when I first heard it, so I got one, and it is outstanding. I have cracked many of the problems of very poor mobile service, including in that far-fetched place, which never seems to have decent service, called Hampstead. I now have perfect service—it is an absolutely terrific system.

I think that there is a very strong case for this. We are not talking about a national programme, but it certainly addresses a large part of the problem about coverage. There seems to be no particular issue: it gives us good customer experience, it is not particularly difficult to roll out, and that is why it is sensible and worth while for it to be in this Bill. Now that I have another phone, I of course endorse the provisions on switching, but I would make this point about switching and compensation. These strengthen and make explicit the powers of Ofcom to require certain changes in relation to compensation to make sure that companies automatically compensate customers who experience poor levels of service. I think there is a very strong consensus, and that Ofcom will come to the conclusion that it is vital that consumers are financially compensated. An automatic compensation scheme will act as an incentive to telecoms companies to improve their performance.

Baroness Buscombe (Con): My Lords, I am sorry that I was unable to satisfy noble Lords at Committee, so let me try again. Amendment 5 raises important issues for many customers, and we really do appreciate consumer concerns. Following previous debates that we have had on these matters, my officials have spoken with mobile network operators to check progress in this area.

Currently, providers offer consumers various ways to manage their usage, including the use of bill caps. So I say to the noble Lord, Lord Clement-Jones, that it is possible already for a consumer to put a cap on his or her expenditure. Tesco Mobile, for example, already provides capped contracts for the benefit of its customers. This includes a safety buffer which can be set to suit preference. Three allows consumers to block calls that go over their monthly allowance and calls that may be not be included as part of their allowance. Vodafone allows a cap to be set up through an app. Additionally, EE, Virgin Media and O2 offer the facility of notifying customers through warning text message alerts when approaching the limit of their allowances.

The Government expect providers to continue to take steps to minimise bill shock and ensure that their customers are adequately equipped to manage their mobile phone usage. We will underline this further in the forthcoming consumer Green Paper, which will be published in April, a Green Paper that my noble friend Lord Ashton has referenced today. This is an issue that needs careful thought, which is why the Government believe it is only right that we do so in a consultative manner. We need to consider and mitigate unintended consequences in that process.

Universal bill caps do not exist for other utility services for good reason—the essential nature of them. Mobile phone services are indeed an essential service for many; I agree with the noble Lord, Lord Mendelsohn, that they are not a luxury. We need to ensure that the outcome from this debate does not risk putting people in vulnerable situations, whether that is leaving them

unable to make a vital call when they break down at the side of the road or having to contact a friend or relative in their hour of need.

I know a number of elderly people living on their own who rely wholly and completely on their ability to use their mobile phone if they are afraid or concerned or have a fall. They may have forgotten to pay their bills and so on. Suppose they did not have that opportunity to contact someone in an emergency. They would be put in a difficult and frightening situation. I know there is a feeling that, "Well, the bill cap is there, but people could still contact the emergency services". However, we already have an enormous burden on our emergency services, and we fear that this would increase that burden. So would this really be in the interests of consumers, as suggested by the noble Lord, Lord Clement-Jones?

I agree with noble Lords that mobile providers need to take responsibility for looking after their customers. The Government have previously negotiated a voluntary agreement with providers that means there is already a £100 liability cap to cover lost and stolen mobile phone handsets, provided that they are reported as lost or stolen within 24 hours. There was good reason not to put that agreement in primary legislation: it would have been too prescriptive and offered no flexibility as technologies progress. That is an issue that we keep returning to: do we want to be prescriptive in the Bill when we are talking about the digital economy, when we know the technology is constantly changing? So we have considerable concerns with putting such a prescriptive amendment into primary legislation.

It is worth highlighting that Ofcom, as regulator, has a duty to protect the interests of the end-user in the telecom markets. It would therefore seem improper to progress the amendment without due consideration to what the role of government and Ofcom would be regarding enforcement. There is no point putting this in the Bill if there is no practical enforcement. This is yet another reason why the Green Paper will allow us to reach a well thought-out solution to address the concerns that noble Lords have rightly raised.

The switching principles that noble Lords have proposed putting on to the statute book are broadly those on which the Government consulted in an October 2015 call for evidence. Following the end of that consultation, the Government published a response in May 2016, including revised principles based on responses received to the call for evidence. The Government's response also confirmed our commitment to work with Ofcom to ensure that consumers could switch their telecom services, by legislating through the Digital Economy Bill. However, the Bill does not mandate the switching principles, as this would go against the spirit of them as principles and would not take account of the different characteristics of different sectors and consumer needs. We know that it would risk creating a power that could prove to be, again, too prescriptive for the future needs of consumers as technologies continue to develop.

4.45 pm

I hope that noble Lords will accept that we all share the common aim of making it easier for consumers to switch providers of services. Ofcom already has powers to require specific switching processes to be put in place, as it has done on the Openreach network. It is disappointing that we do not yet have better switching processes in place. There is no doubt that the reason for the delays is that the industry is dominated by incumbent businesses that fear losing customers and frustrate the process. This Bill, however, is designed specifically to address this problem. We are giving teeth to the regulator in two ways: first, removing any doubt that Ofcom has the powers; and, secondly, reforming the appeals system to restore fairness and to accelerate the implementation of regulatory decisions.

I also point out to noble Lords that the Government are taking action elsewhere in the Bill to address issues raised in the amendment. Clause 3 makes explicit Ofcom's powers to put in place automatic compensation rules and Clause 79 is intended to increase consumer access to data and information that will facilitate easier and more accurate comparisons. Therefore, the proposed amendment risks duplicating what the Government are pursuing in other clauses of this Bill.

The Government's role is to identify and address barriers to consumer participation in the market, and in this instance we have concluded that the most effective way to facilitate easier switching is to work with Ofcom to strengthen the regulatory landscape for the benefit of the consumer through Clause 2 of the Digital Economy Bill. Ofcom has conducted consultations into mobile and cross-platform switching, and is due to announce next steps for mobile in the spring—which is, of course, not too far away—and for cross- platform switching later in the year. With that further explanation, I hope that the noble Lord will agree to withdraw his amendment.

Lord Clement-Jones: My Lords, I thank the Minister for that response. It was very interesting that we had the full range of ministerial responses: the unintended consequences; the burden on the emergency services; the "too prescriptive" argument; "we are working with Ofcom and getting this very carefully right"; and the "we cannot enshrine principles because they might go against the spirit of the principles" argument. I thought that was a very interesting one.

The Bill is designed to deal with frustrated customers, and, of course, there is a risk of duplication, as the Minister says—which is an interesting one—despite the fact that we are being too prescriptive. I am not sure that I sense the total logic behind the Minister's response. A number of different barriers have been raised, but I cannot really see great merit in the response in that event.

As regards capping, this is a voluntary system. Raising the question as to whether people are going to put a burden on the emergency services seems to me extraordinary. There are people with pay-as-you-go SIM cards who are in the same position. What we are asking for is for people to be put on the same footing, so that there is a limit to which they are subject, but a voluntary one that they ask to be imposed so they can have better control over their own finances. That seems an eminently sensible and not overly prescriptive measure that we would be asking Ofcom to ensure service providers have in place.

[Lord Clement-Jones]

As for switching, I remind the Minister that these are the Government's own principles. I cannot see how it goes against the principles to include them in the Bill. That is tautologous, and certainly not an attractive argument against including switching rights.

Consumers have been waiting for switching ability for mobile phones for a very long time. I have been corresponding with Ministers for a long time on the subject. I am delighted that we are seeing the beginning of movement, but telling us to wait for an Ofcom paper on next steps for mobile that will be the beginning of a brave new world when in fact, we could be amending the Bill to put duties on Ofcom straightaway, is not very attractive. I want to test the opinion of the House.

4.50 pm

Division on Amendment 5

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Amendment 5 agreed.

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Geddes, L.
Glenarthur, L.
Gold, L.
Goldie, B.
Goodlad, L.
Green of Hurstpierpoint, L.
Greenway, L.
Griffiths of Fforestfach, L.
Hailsham, V.
Hamilton of Epsom, L.
Hanham, B.
Harris of Peckham, L.
Henley, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Home, E.
Hooper, B.
Horam, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jay of Ewelme, L.
Jenkin of Kennington, B.
Kalms, L.
Keen of Elie, L.
King of Bridgwater, L.
Kinnoull, E.
Laird, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lucas, L.
Lupton, L.
Lytton, E.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
Mackay of Clashfern, L.
MacLaurin of Knebworth, L.
Magan of Castletown, L.
Manzoor, B.
Marland, L.
Maude of Horsham, L.
Mobarik, B.
Montrose, D.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Prior of Brampton, L.
Ramsbotham, L.
Rawlings, B.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Ryder of Wensum, L.
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.
Sharples, B.
Sheikh, L.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Skelmersdale, L.
Slim, V.
Smith of Hindhead, L.
Spicer, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stirrup, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Sugg, B.
Suri, L.
Swinfen, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Turnbull, L.
Vere of Norbiton, B.
Verma, B.
Wakeham, L.
Wasserman, L.
Waverley, V.
Wei, L.
Wilcox, B.
Williams of Trafford, B.
Wolfson of Aspley Guise, L.
Young of Cookham, L.
Young of Hornsey, B.
Younger of Leckie, V.

5.02 pm

Schedule 1: The electronic communications code

Amendment 6

Moved by ***Lord Ashton of Hyde***

6: Schedule 1, page 107, line 41, at end insert—

"Code rights and land registration

13A_ Where an enactment requires interests, charges or other obligations affecting land to be registered, the provisions of this code about who is bound by a code right have effect whether or not that right is registered."

Lord Ashton of Hyde: My Lords, the Committee debates afforded the opportunity to cover many areas of the Electronic Communications Code in detail and I and my officials have reflected further on the points raised. The government amendments tabled following this are intended to provide greater clarity and make it easier for the code to be applied in practice.

Amendment 6 concerns land registration. During the debate, the noble Lord, Lord Foster, drew our attention to the relationship between the code rights and land registration rules and questioned whether the revised code provided adequate clarity on this. Having revisited this area of the revised code as a result of this, and taking into account his helpful comments, we have now tabled Amendment 6. This amendment makes it clear that the code rights will bind site providers whether they are registered as part of an agreement—for example, a lease—with the Land Registry or not. This will ensure certainty for operators and landowners and support continuity of service for consumers.

Amendments 8 to 12 are about valuation. The noble Lord, Lord Grantchester, spoke in Committee of his concerns, and the concerns of stakeholders, that paragraph 23 of the revised code was not clear enough. Paragraph 23 sets out the basis on which the consideration for an agreement to confer code rights is to be assessed. I take this opportunity to thank the noble Lord,

[Lord Ashton of Hyde]
Lord Grantchester, for taking the time to meet me and discuss these comments further, and for the effort he has made to get to grips with this complex area. I also acknowledge the contributions made by the Royal Institution of Chartered Surveyors and the Central Association of Agricultural Valuers, which have provided invaluable assistance to officials in developing amendments that will address these concerns.

The Government are clear that landowners should be paid appropriately for allowing code operators to use their land. That is why the revised code requires a price to be paid for that use, rather than creating a system where the landowner solely receives compensation. However, the Government are equally clear that the public need for digital communications services is such that landowners, whoever they are, should not be able to extract additional value from the fact that their land is being used specifically for the provision or use of electronic communications networks. Paragraph 23 therefore introduces a "no scheme" basis of valuation which ensures that any such additional value is not taken into account when the value of a code agreement is assessed. The no scheme basis of valuation is central to the aims of these reforms, which are to deliver improved coverage and connectivity for UK consumers by making it easier and cheaper for digital communications providers to roll out their infrastructure. The amendments tabled here do not change the Government's policy position.

Amendments 8 to 10, to new paragraph 23 in Schedule 1, provide that the market value of an agreement to confer code rights must be assessed on the basis of four clearly expressed assumptions. Their combined effect will ensure that operators do not pay elevated prices for using land to provide infrastructure and deliver electronic communications networks.

Amendments 11 and 12 make corresponding amendments to new paragraph 63 in Schedule 1, which deals with the valuation of Crown tidal land. This group also contains a number of minor technical amendments. Amendment 8 simply updates and corrects a cross-reference. Amendment 13 recognises that there is no property chamber of the First-tier Tribunal in Wales, so that code disputes in Wales can be dealt with only by the Upper Tribunal.

Finally, Amendments 15 and 16 are consequential on the devolution of the management functions of the Crown Estate commissioners to the Scottish Ministers under the Scotland Act 1998, as amended by the Scotland Act 2016. I will reply to the amendment in the name of the noble Lord, Lord Grantchester, after he has spoken to it, and beg to move Amendment 6.

Lord Grantchester (Lab): My Lords, I thank the Minister and his team, especially Kellie Hurst, for meeting and looking at the difficulties around the communication code. The meetings were indeed very constructive, focusing on the issue of value. I am grateful to the Minister for his introductions to the amendments today and for his kind words.

In Committee, we wondered how far this code got the balance correct between property rights and the public benefit. We all recognised the public interest in accessing modern communication channels at as low a price as possible. The Government finalised their position, after representations from operators, to a further qualified use of market value, which resulted in a clouded understanding that might not have been helpful but for this clearer use of language now proposed. In references to the new code as being on a no-scheme basis, there had been interpretations that this imported a compulsory purchase compensation basis that gave rise to general misapprehensions about the code by parties with a compulsory purchase experience. The code is now clearer that value is based on agreement as reflected by market value, qualified by the public interest in references to a no scheme basis in that the disregard is of the use of the rights for the electronic communications network.

Amendments 6 and 7 are clarifications to new paragraph 13 in Schedule 1, as prompted by the noble Lord, Lord Foster, and technical corrections are to new paragraph 15.

Amendments 8, 9 and 10 to new paragraph 23 are the pertinent amendments, with further clarifications in Amendments 11 and 12 to new paragraph 63, which now makes clear that the core principle remains that the consideration is to be assessed as the market value of agreement conferring the code rights. It is not compensation for loss. That is then further defined in new paragraph 23(2) in Schedule 1 and interpreted and qualified in proposed new sub-paragraph (3A).

As the Minister said, proposed new sub-paragraph (3A), regarding market value, makes four assumptions that clear up the misapprehensions and misunderstandings brought to us and considered in Committee. Assumption 1 recognises that the code right is within the agreement and that everything under it is relevant, save the intended function for a network. Assumption 2 reflects the Government's policy that the operator's freedom to assign the agreement and its qualified freedoms to upgrade or share apparatus are to be disregarded. Following these two disregards, assumption 3 affirms that the code right in question is otherwise to be assessed as it is in the real world and not some hypothetical one. Assumption 4 follows the Law Commission's report and recent government policy in assuming there is more than one suitable site available as a means to exclude perceptions of ransom value brought forward by operators, even though the definition and interpretation of market value excludes ransom value.

Amendments 11 and 12 translate what I said above to new paragraph 63 in Schedule 1 concerning Crown land, and Amendment 13 is a technical correction of new paragraph 94. We will all be grateful that there has been a lot of proofreading and for Amendments 15 and 16 regarding the transfer of duties to the Scottish Government. We are also very grateful that the Minister listened to the concerns we raised in Committee and, in re-examining the situation, recognised that improvements could be made. We are in agreement with the amendments and, like the Minister, I am grateful to the Royal Institution of Chartered Surveyors and the Central Association of Agricultural Valuers for their technical expertise, which helped to recognise misapprehensions and clarify our drafting. These amendments make a massive improvement.

It could be said that with these improvements there should be fewer disputes and therefore fewer problems

concerning the code of practice to be drawn up between operators and site owners. Granted that this may well be the case, and that the Minister said in Committee that the large superstructure of an adjudicator's office and staffing may be costly, cumbersome and unnecessary, anxieties nevertheless remain. Wide experience in other areas operating under a code of practice is that, where there is a wide disparity between the relative economic strengths of parties involved in an activity, market power tends to lead to abuses against the smaller party with the use of unfair practices and a transfer of business risk. As Ofcom is a regulator with little or no experience or much expertise in this area, Amendment 14 proposes that it appoint an expert independent adjudicator to rule on disputes brought under the code of practice.

It would be an error to assume that the new regime will immediately work without there being a hitch or problem in the operation of the new code. Parties acting under it must recognise that any code of practice has to be abided by and has teeth with which to enforce compliance, and must have confidence that they have recourse should they consider the code to have been breached. I welcome the Minister's assurance in this respect.

Lord Ashton of Hyde: My Lords, I thank the noble Lord, Lord Grantchester, for explaining his amendment, which seeks to introduce a statutory regulation by Ofcom of the code of practice for the Electronic Communications Code and to create a code adjudicator to examine breaches of the code of practice and impose sanctions. The Government understand the need to ensure that the Ofcom code of practice has real impact on industry behaviour. The Electronic Communications Code will modernise the way digital communications are deployed, and it is essential in this new market that the legitimate interests of all parties are respected.

Under paragraph 102 of the revised Electronic Communications Code, Ofcom has a duty to develop and publish a code of practice. The development of this code must be in consultation with key stakeholders, including both industry representatives and landowner interest groups. This ensures that relevant parties have the opportunity to directly influence industry standards of best practice.

5.15 pm

We also need to consider in the context of the Electronic Communications Code the role of the courts as the independent arbiter of code disputes. The legal framework underpins consensual agreements. Code rights cannot be exercised unless they are agreed with the site provider or imposed by the courts. This places the court in the position of adjudicator of code disputes. In arriving at their decisions the courts will of course consider the conduct of parties, both generally and in relation to what has been set out in an industry code of practice. So whether a party has complied with the code of practice will ultimately be subject to the scrutiny of the court.

Taken together these factors will ensure that compliance with the code of practice is always taken into account by parties negotiating agreements and by the court where agreement is not reached. An additional layer of adjudication by a person other than the court is not necessary and would be a costly and burdensome duplication.

In the light of those assurances, I hope the noble Lord will not move his amendment. I thank him for his agreement to the government amendments.

Amendment 6 agreed.

Amendments 7 to 13

Moved by ***Lord Ashton of Hyde***

7: Schedule 1, page 108, line 33, leave out "90(2)(b)" and insert "90(2)(a)"

8: Schedule 1, page 113, line 31, after "is" insert ", subject to sub-paragraph (3A),"

9: Schedule 1, page 113, line 37, leave out "as if the transaction were" and insert "on the basis that the transaction was"

10: Schedule 1, page 113, line 39, leave out from beginning to end of line 7 on page 114 and insert—

"(3A) The market value must be assessed on these assumptions—

(a) that the right that the transaction relates to does not relate to the provision or use of an electronic communications network;

(b) that paragraphs 15 and 16 (assignment, and upgrading and sharing) do not apply to the right or any apparatus to which it could apply;

(c) that the right in all other respects corresponds to the code right;

(d) that there is more than one site which the buyer could use for the purpose for which the buyer seeks the right."

11: Schedule 1, page 140, line 22, after "is" insert ", subject to sub-paragraph (7A),"

12: Schedule 1, page 140, leave out lines 30 to 40 and insert—

"(7A) The market value must be assessed on these assumptions—

(a) that the right that the transaction relates to does not relate to the provision or use of an electronic communications network;

(b) that the right in all other respects corresponds to the tidal water right;

(c) that there is more than one site which the buyer could use for the purpose for which the buyer seeks the right."

13: Schedule 1, page 157, line 12, leave out "and Wales"

Amendments 7 to 13 agreed.

Amendment 14 not moved.

Amendments 15 and 16

Moved by ***Lord Ashton of Hyde***

15: Schedule 1, page 160, line 22, after "Commissioners" insert "or the relevant person"

16: Schedule 1, page 160, line 43, at end insert—

"( ) In sub-paragraph (6)(a) "relevant person", in relation to land to which section 90B(5) of the Scotland Act 1998 applies, means the person having the management of that land."

Amendments 15 and 16 agreed.

Amendment 17

Moved by ***Lord Stevenson of Balmacara***

17: After Clause 8, insert the following new Clause—

"OFCOM power to impose caps upon wireless telegraphy licenses

In Schedule 1 to the Wireless Telegraphy Act 2006, for paragraph 3 (information to be provided in connection with applications) substitute—

"3 The grounds on which a licence may be refused by OFCOM include—

(a) a failure by the applicant to provide information which OFCOM reasonably require in order to satisfy themselves that the applicant is able to comply with terms, provisions or limitations to which the licence may be made subject, or

(b) where the applicant owns more than 30% of the total useable mobile phone spectrum in the UK and OFCOM has a reasonable belief that the award of further licences would have a damaging impact upon competition in a given electronic communications market.

3A Where an applicant already owns more than 30% of the total usable mobile phone spectrum in the UK, and OFCOM has a reasonable belief that the holding of these licences may have a damaging impact upon competition in a given electronic communications market, OFCOM may request that the holder of the spectrum must divest a proportion of its spectrum holdings until such a competition issue no longer exists.

3B Within six months of the day on which the Digital Economy Act 2017 is passed, OFCOM must commission an evaluation of the distribution of radio spectrum suitable for use for the purpose of mobile telephony and present a report to the Secretary of State.

3C The evaluation under subsection (3B) must consider—

(a) the impact on competition in the mobile telephony market of the current distribution of spectrum;

(b) the impact on consumers, both financial and in terms of coverage;

(c) the efficiency of current spectrum usage; and

(d) the impact of preventing any one licence holder from owning more than 30% of the total spectrum useable for mobile telephony.

3D The Secretary of State must lay the report of the review before each House of Parliament by 1 July 2018.""

Lord Stevenson of Balmacara (Lab): My Lords, we return to an issue which we discussed in Committee. At that time my proposed amendment received support from the noble Lord, Lord Fox, for which I was grateful, and I know that he again supports the amendment today. The reason for returning to this is that I sense that we did not prosecute the amendment to the full extent possible at the time—that may have been our fault, but it was quite late in the evening—and, on reflection, there may be an issue here that needs a little more care and concern from Ministers before we leave it.

To go back over the issue, we are talking about the development of spectrum, which is a valuable national resource that—although there always seems to be more of it—is finite. Therefore, as a national resource, it is important that the Government have a firm grasp on how it should be distributed and the prices that should be paid for it. Currently, it is for Ofcom to introduce the necessary regulatory framework, which it does by considering how and on what basis additional spectrum can be made available and on what basis it can be released to operators who wish to use it. That has taken the form of auctions, which have been of varying types over the years—some have been spectacularly successful and some less so—and have been done under different rules.

The nature of the Government's engagement with this is through Ofcom, and the amendment in no way aims to make a change to that basic structure. However, there is a question about whether we have reached the point where the Government should pay more attention to the issues concerned in this area than they have in the past. Why is this? It is because we have gone from a situation of having reasonably equitable spectrum holdings to having quite a significant imbalance in spectrum. This is partly because of the growth in one or two of the companies concerned. Some of that has been organic, but one of the main reasons has been the allowing of the merger between BT and EE, which has created a group that has been described as a,

"behemoth in the communications market".

Therefore, we are not now in a situation where there are four companies competing for customers using broadly the same rates and amounts of spectrum; we are talking about only three companies—and possibly a fourth—and the problem is that two of those are very large indeed compared to the others. For example, BT/EE, the combined behemoth, has the largest proportion of all available spectrum, with 39%, while Vodafone has a significant but smaller 27%, Three has just 14% and O2 has only 13% of available mobile spectrum. In responding to this amendment, could the Minister reflect on whether this situation represents an optimum position for the market and, if it does not, whether the powers that he has are appropriate for how it goes forward?

However, it gets more complicated. There are, as one might expect, different sizes of companies and the individual spectrum bands are also of different value. It is therefore important not to look only at the overall figures but to be concerned with how the bandwidths that have the highest capacity—and therefore the best ability to offer innovative services to consumers—are going to be dealt with.

We have the prospect of a further auction this autumn, for which Ofcom is currently consulting on what will be the rules for auctioning off a total of 190 megahertz of high-capacity spectrum in the 2.3 gigahertz and the 3.4 gigahertz bands, which are particularly suited to higher-speed mobile broadband services—a topic that we have just been discussing. Clearly, for the future of UK plc and for the future of businesses and individuals in this country, how the spectrum is made available, how much of it is made available and on which bandwidths will be a crucial issue that we must get a handle on.

In this amendment we are proposing that more attention should be paid than in the past through a cap of, say, 30% on the individual holdings that any one company may have of the usable mobile phone spectrum. This is a figure which has been broadly discussed, and which Ofcom has been using in some of its discussions and debates around this issue, so it would not represent a very different approach.

However, before we go to the auction for this high-value additional spectrum, which will be crucial for 5G and further services going forward, there must be an evaluation carried out by the Government, not by Ofcom. This should look at: the impact on competition in the mobile telephony market of the current distribution of spectrum; the impact on consumers, who are often neglected, both in financial and coverage terms; the efficiency of the current spectrum usage; and the impact of preventing any one licence holder from owning more than 30% as a broad-brush approach. If this review is to be effective, it must be done quickly and brought to the House. I beg to move.

Lord Maxton: My Lords, I shall be brief. I have in my pocket a mobile phone owned by Virgin Media. Virgin Media uses the EE spectrum. As far as I know, there is no financial connection between Virgin Media and EE, but Virgin uses the EE network. Could the Minister explain that to me?

Lord Fox: My Lords, I am fortunate to follow the noble Lord, Lord Stevenson, whose comprehensive support of his amendment means that I need say very little, but I will make a couple of points.

We have talked in various debates on the digital economy about how wireless and broadband are converging, but there is one area where we do not want them to converge. The paroxysms that we are putting ourselves through around the broadband issue are because of how broken that market is, and there is a firm danger that we may be sending the wireless market down the same route. As the noble Lord, Lord Stevenson, pointed out, we had an equitable spectrum distribution, but there is a clear and present danger that we will move even further from that equity, with two dominant players and two very small players. The purpose of this amendment is to work in advance of that, so that we will not subsequently be debating the brokenness of the wireless market as we have been, from time immemorial, in respect of the broadband market.

When this amendment was debated in Committee, the Minister's response was very much about leaving Ofcom to choose. He hazarded that, from the Government's point of view,

"it also strikes us as unlikely that Ofcom, having determined appropriate rules …, would immediately nullify the results".—[*Official Report*, 31/1/16; col. 1196]

In other words, it is up to Ofcom to decide, and it is not going to decide on this issue. That actually makes this amendment more important, not less. Ofcom has clearly recognised that there is a potential issue here, and it has gone tentatively down the route of limiting access to the 2.3 gigahertz spectrum while completely ignoring the 3.4 gigahertz spectrum. I think that the case has been made by the noble Lord, Lord Stevenson, for us to take account of that in the Bill and, for that reason, I support the amendment.

Lord Ashton of Hyde: My Lords, I thank all noble Lords who have spoken on this technical but important subject. The intention behind the amendment is that Ofcom is able to ensure competition in the mobile market. It also proposes that the Government commission and evaluate the current usage and allocation of mobile spectrum.

As has been said, Ofcom already has the power to set appropriate rules for its spectrum licensing, taking due account of competition implications. Ofcom must award licences by processes that are open, objective, transparent and proportionate to what they are intended to achieve and not unduly discriminating against particular persons or a particular description of persons. It is important to remind ourselves that Ofcom has been given the position of regulator of the telecommunications market in the United Kingdom. It already has a duty, when carrying out its radio spectrum functions, to have regard to the desirability of promoting both competition in the provision of electromagnetic communications services and the efficient management of radio spectrum for wireless telegraphy.

Reviewing the state of competition in the mobile market falls clearly within Ofcom's remit. It considered many of the issues outlined in the proposed new clause in its recent consultation on the forthcoming spectrum auction. This included a proposal to apply a cap of 255 megahertz on the amount of immediately useable spectrum that any one operator can buy. Ofcom believes that the UK mobile market is currently working well for consumers and businesses, with strong competition between mobile network operators. It considers it unlikely that any of the four mobile network operators would cease to be credible as a national supplier of mobile services in the next few years, even if they did not obtain any spectrum in the forthcoming auction. Additionally, more useable mobile spectrum, such as the 700 megahertz band, will be available in the future. The reality is that Ofcom has considered the competition issues in some detail. Not everyone agrees with its conclusions, and Ofcom will take that into account as part of its consideration of the consultation responses. However, it is for Ofcom as the regulator to take a view on these issues, and it has already done so.

The noble Lord, Lord Stevenson, asked whether the current divisions are optimum. Ofcom is obviously more expert than I am, and we think it is for Ofcom to opine on that. As I said, Ofcom proposes to set a cap of 255 megahertz on the immediately useable spectrum. It has explained that, as a result of this proposed cap, BT/EE would not be able to bid for spectrum in the 2.3 gigahertz band. The cap will prevent a worsening of the current extent of asymmetry in immediately useable spectrum. I think that that indicates its views and I am not going to contradict it.

In addition, if the Government felt that it was necessary to direct Ofcom to undertake a competition assessment, they could do so under Section 5 of the Wireless Telegraphy Act, and they did so in 2010 ahead of the 4G auction.

The noble Lord, Lord Maxton, asked how Virgin supply a mobile network through EE. I am informed that the answer is that Virgin sublet part of EE's spectrum access.

Given that Ofcom is already able to, and does, take into account competition issues, I hope that the noble Lord will agree to withdraw this amendment.

Lord Stevenson of Balmacara: I gather that the right way to respond is to say that I am obliged to the Minister for his response. The issue is really about how

[Lord Stevenson of Balmacara]
fair the market is going to be to the three groups concerned. Obviously, the regulator has got to decide to ensure that there is fairness in relation to the individual companies involved; there has to be respect for the overall pricing and impact that it has. But the missing ingredient is the consumers, and how they will be affected by decisions that are taken. I sometimes wonder whether the regulator has the position of the consumer centrally in its focus when it does so.

I am also minded to reflect on the fact that, with the decision of the House to impose a different form of USO within the Bill, there may be implications for how Ofcom might have to operate in this market, and it may be sensible to give time for that to be reflected on and see how it works out as we move forward a little further.

5.30 pm

I notice that the Minister did not answer my question about whether Ministers felt that this was a fair and equable decision, relying instead on advice from Ofcom—but that really was not the point. At the end of the day, there is a tension between what Ministers and government might wish to see and what Ofcom is prepared to agree to in relation to the market, the individual companies and consumers. I note that the Minister was silent on that point.

Finally, in reflecting on the powers that Ofcom currently has to intervene in this area, the Minister was able to point out that Ofcom has the powers to take an interest directly in what is happening in terms of the allocation of spectrum but that the last time it did that was in 2010. Of course, that was a time when it is generally regarded we had a balanced arrangement in relation to the companies.

I think that there is enough in what we are currently doing and decisions that we have previously taken this afternoon for this to be an ongoing discussion. At this stage, I beg leave to withdraw the amendment.

Amendment 17 withdrawn.

Amendment 18 had been withdrawn from the Marshalled List.

Amendment 19

Moved by ***Baroness Buscombe***

19: Before Clause 28, insert the following new Clause—

"Lending of e-books by public libraries

(1) In section 5(2) of the Public Lending Right Act 1979 (interpretation) for the definition of "lent out" substitute—

""lent out" means made available to a member of the public for use away from library premises for a limited time (including by being communicated by means of electronic transmission to a place other than library premises) and "loan" and "borrowed" are to be read accordingly;".

(2) Section 40A of the Copyright, Designs and Patents Act 1988 (lending of copies by libraries or archives) is amended as follows.

(3) After subsection (1) insert—

"(1ZA) Subsection (1) applies to an e-book or an e-audio-book only if—

(a) the book has been lawfully acquired by the library, and

(b) the lending is in compliance with any purchase or licensing terms to which the book is subject."

(4) In subsection (1A)—

(a) for "subsection (1)" substitute "subsections (1) and (1ZA)";

(b) after paragraph (a) insert—

"(aa) "e-audio-book" means an audio-book (as defined in paragraph (a)) in a form enabling lending of the book by electronic transmission,"."

Baroness Buscombe: My Lords, Amendment 19 fulfils a manifesto commitment to enhance the public lending right by extending it so that authors of e-books and audiobooks have the right to receive payment from a government fund for the remote lending of these books from public libraries across the UK. The new clause also amends the Copyright, Designs and Patents Act 1988 to enable rights holders to include appropriate terms in respect of e-books and e-audiobooks to reflect the differences between digital and physical books and ensure that e-lending by public libraries mirrors physical lending. This will mean that current protections for authors, publishers and booksellers can be maintained. The Government have been pressed to make this amendment throughout the passage of the Bill in both Houses. I reassure the House that it has always been our intention to deliver on our commitments to authors as soon as possible.

In preparing this amendment, we have had to await the outcome of litigation, and we have discussed the matter in depth with lenders, publishers and authors. I am pleased that the sector supports our approach; it has also reiterated its shared commitment to support a strong book sector, reading and literacy, including by supporting public access to e-books as well as physical books and audiobooks through libraries. I put on record the Government's thanks to the sector representatives, and I hope that they will continue to work closely with the Government to successfully implement these changes and support the Government's manifesto commitment to ensure remote access to e-books for public library users. I also thank all noble Lords who have spoken on this issue. I beg to move.

The Earl of Clancarty (CB): My Lords, I take this opportunity to congratulate the Government on introducing this amendment, for which authors will be very grateful indeed. Credit should go to the groups and associations that have campaigned for this change, including the Society of Authors and the Authors' Licensing and Collecting Society, which have both campaigned on this issue for some time.

I have just one issue with the wording of the Government's amendment. The Society of Authors briefing argues that it would be clearer if the words, "for the purpose of library lending" were added to "lawfully acquired" in line 32. This clarification is in the amendment in the name of the noble Lord, Lord Clement-Jones. The phrase "lawfully acquired" hangs there by itself and although it might be argued that it is implied that the acquisition is for library lending, that is not absolutely clear. It should be stressed that all interested parties were in agreement about this and

would be happier if this clarification were made. Will the Minister promise to look at this before Third Reading and see if it can be tweaked?

Lord Clement-Jones: My Lords, I add my voice to the thanks offered to the Minister by the noble Earl, Lord Clancarty, for having now included this amendment, albeit there are some questions to be asked. I hope the Minister will be able to tell us why the wording is rather different from that in the amendment we put down in Committee. Those differences need to be accounted for but this is a good way of delivering on a commitment that the Government made. It is really the final fruits of the Sieghart report and will be strongly welcomed by authors and writers across the country. We all value the public lending right, which makes a small but very significant addition to the income of authors.

Lord Maxton: My Lords, I too welcome the amendment; it is well worth while, but it is worth making a point I made earlier. Of course, there are now books that are written entirely as e-books and not published at all in printed form; they are published for the Kindle or similar devices. Does this amendment cover these as well? Does it give the author of such books exactly the same rights as the author of a book published in printed form?

Of course, e-books are now lent not just by public libraries. Amazon has its own public service—well, a service anyway; it is not public; you pay for it—whereby it can lend you a book that you can read on your Kindle for a limited time and that is available only as an e-book and not in printed or any other form. Do the same rights extend to authors whose books are lent in this form? Are these the same rights you would get through a public library?

My last point is also one I have asked about before. Public libraries in Scotland, of course, come under the local authorities, and local authorities in Scotland come under the Scottish Parliament. Is this a devolved matter or will it now be covered by the UK as a whole?

Lord Stevenson of Balmacara: My Lords, we welcome the Government's tabling their amendment on this issue, as promised. In Committee, the Minister said she wanted to work with the sector groups involved to support a strong book sector that helps to promote opportunities for the public to read and learn, and she intended to table her own proposals for the necessary legislative changes as soon as possible. We sometimes hear that and then have to wait ages, but this time she has been able to get the Whitehall system to work to her agenda, and I congratulate her on that.

Baroness Buscombe: I thank all noble Lords who have spoken in this short debate. I shall refer to Amendment 23, tabled by the noble Lord, Lord Clement-Jones. When moving this amendment in Committee, the noble Lord explained that interested parties representing the sector had since proposed a different wording from that used in the amendment. The Government have considered the suggested wording from the sector and our amendment seeks to reflect stakeholder views, although we have achieved the intention of enabling terms to be applied by rights holders to e-books and e-audiobooks for lending through an amendment to the Copyright, Designs and Patents Act 1988. Rights holders will therefore be able to make e-books and e-audiobooks available with clear terms about whether these are available for lending and, if so, what conditions on library lending would apply, such as one loan to one user at a time or that the book will be available to lend for a limited overall lifespan.

I am also delighted that the proposed extension of the public lending right to include remote e-lending has cross-party support, as was made clear in Committee. This amendment will maintain protections for rights holders, while enabling authors to rightly receive public lending right payments for the increasing remote lending of their works, as they do for the lending of books from library premises. I hope the noble Lord, Lord Clement-Jones, will therefore not press his amendment but support the Government's new clause.

In response to the noble Lord, Lord Maxton, I can confirm that, as I think we discussed in Committee, the provision covers all books, including purely online, digital books. It is also UK-wide, so it is not a question of devolved powers. However, it is all to do with public lending rights and lending through public libraries, not with the example he raised regarding Amazon.

Amendment 19 agreed.

Clause 28: Offences: infringing copyright and making available right

Amendment 20

Moved by ***Lord Stevenson of Balmacara***

20: Clause 28, page 29, line 23, at end insert—

"(7) If it appears to the Secretary of State that the extent of the manufacture of unauthorised decoders or similar equipment for sale or hire imported into the United Kingdom (otherwise than for private and domestic use) or distribution otherwise than in the course of a business has reached a level which is likely to affect prejudicially the owners of copyright works, the Secretary of State may bring forward regulations made by statutory instrument which prohibit such activities.

(8) A statutory instrument containing regulations made under subsection (7) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

Lord Stevenson of Balmacara: My Lords, when this matter appeared in Committee during our discussions on the intellectual property section of the Bill, I was supported by the noble Lords, Lord Foster of Bath and Lord Clement-Jones. I am grateful to those noble Lords for agreeing to support this amendment this time.

We had quite a good debate on a concern that is relatively new in the sense that we have not seen much evidence of it before. For those who were not involved, the problem involves a small device, such as a USB stick, that is plugged into a TV set using a standard connection. The problem is that the device can be loaded so that it has software and add-ons which are

[Lord Stevenson of Balmacara]
preconfigured to give access to thousands of streams; or that users can purchase boxes of software giving them access to material that would otherwise not be available to them because of copyright. Of course, they do not pay for that material. There will clearly be a threat to rights owners from the impact on their earnings streams if these unauthorised decoders or similar equipment become widely used. The scale of the problem—which the noble Lord, Lord Clement-Jones, illustrated in his speech—is beginning to cause concern for those who have rights that are being abused in this way.

In responding to the debate on this amendment, the Minister said that the matter had registered on the Government's agenda and that,

"illicit streaming and the infrastructure and devices that enable it pose a very serious threat to legitimate copyright owners".

She said that the Government,

"share the wish of those behind these amendments to ensure that this harmful activity is properly tackled".

However, she also said—quite rightly, I suppose—that we should not,

"jump immediately to introduce new criminal provisions",

but take time to make sure that the legislation in place is not sufficient and, if it is not, discover what would be the right way forward. She also said that there would be action relatively quickly and that:

"Officials at the Intellectual Property Office are working with the Crown Prosecution Service",

to develop new guidance, and that they would run,

"a public call for views over the coming … weeks to ask investigators, prosecutors and industry representatives whether they think the existing legislation is providing all the tools that are needed".—[*Official Report*, 2/2/17; cols. 1387-88.]

This was action on a scale almost unprecedented in government. I gather that the invitation has already gone out to the bodies I have just referred to, that people are responding and that some action is therefore gathering pace. The problem, I suspect, will be that although the Bill is progressing slowly, it is still on a relatively quick pace and we may reach the conclusion of our proceedings on it before all that discussion and debate has concluded.

It seemed to us that, rather than the very specific offences listed in the original amendment we tabled in Committee, including the particularities of the types of equipment and possible penalties that might apply to them, it might be sensible to equip the Government with powers to bring forward appropriate action if it appeared, after the conclusion of discussions and debates, that it was necessary.

It is unusual for opposition parties to offer Henry VIII powers to Ministers, and I shall probably be struck down as I leave the Chamber this evening for having done so, but on this occasion there is clearly an injustice being perpetrated by manufacturers and distributors of this equipment. It is clearly already affecting rights holders—there are figures to show that that is the case. I suspect that the IPO's conclusion will be that action is required. If there are not sufficient remedies within the existing statutory framework, clearly the Government will have to seek an opportunity to create them. As we move into the penumbra of Brexit, it seems unlikely that there will be Bills floating around that we can hijack for this purpose, so it seems eminently sensible for the Government to take the power that is offered in Amendment 20. I beg to move.

5.45 pm

Lord Clement-Jones: My Lords, there is equal enthusiasm on these Benches for this amendment. The noble Lord, Lord Stevenson, has, as ever, put his finger on the issue. I plead guilty to the same constitutionally improper thoughts as the noble Lord, Lord Stevenson. I cannot see why the Government should not take the powers that are needed in advance simply because this vehicle happens to be passing through and there may not be another suitable vehicle very soon.

On the balance of probabilities, at the very least it seems to us that these powers are needed. Those who have spoken to us have universally said that a new offence is needed and that the existing powers are not adequate. Certainly the Motion Picture Association, Sky and others made the point that enforcement agencies, such as trading standards and PIPCU, are unable to pursue strong cases due to the lack of an appropriate offence. This is all about creating an appropriate offence.

I very much hope that the Government, whether at this stage or the next stage, will take heed of the points being made and will give themselves this enabling power in order to introduce a more specific regulation at a future date. The Government should also consider a point that was strongly made by those organisations and think about the enforcement aspects as well in the call for evidence. I hope they will consider the issue which I will be raising next week in an Oral Question on PIPCU funding, which is an important aspect of this. If a power is created and there is no proper enforcement mechanism, it is not a particularly useful creation. I hope the Government will take heed of the fact that this is thundering down the track at great speed and could, as both these Benches described in Committee, have an extremely harmful impact on the audio-visual industries in future.

Baroness Kidron (CB): My Lords, I want to reiterate a point I made in Committee about the context in which young people receive this material. Almost 50% of 16 to 17 year-olds are streaming, and along with the streaming comes advertising, pop-ups and adult material. This is a subject that is close to the Government's heart, as shown by Part 3. This seems a wonderful opportunity to deal with it again in this part. It is not just 16 and 17 year-olds; whole swathes of younger children are getting the habit. As a maker of original IP and as someone who cares very much about the context in which children have their digital diet, this is a very small thing and I support the noble Lords in their amendment.

Lord Inglewood (Con): My Lords, I understand that the extent of what is happening is such that it is a genuine mischief. It is important that the Government are in a position to deal with it because of the damage that is taking place.

From my perspective, it does not really matter how it is done, provided that it is done, and that "when 'tis done, 'tis done quickly". That is the way we will deal

with this. Whatever response the Government may have to the particular amendment being put forward, I hope that they will be able to assure us that they are in a position to deal with the problem and intend to do so, rather than letting it drift on.

Baroness Buscombe: I thank all noble Lords who have taken part in this important debate on an issue that we take extremely seriously. It is very much on the Government's agenda, and I am happy to confirm that again.

Amendment 20 seeks to provide the Secretary of State with a regulation-making power in order to prohibit the manufacture, sale or hire of unauthorised decoders. We have discussed previously in the House the pressing threat to subscription broadcast services caused by illicit set-top boxes, especially those which provide IPTV functionality. These IPTV boxes can in certain cases be considered unauthorised decoders, although that may vary depending on how they are set up to function.

As noble Lords will be aware, to better understand this area and what new legislation might be needed, the Government have committed to conducting a call for views on IPTV boxes, which I referred to in Committee. When we were last discussing this topic, I promised that the call for views would be published within a few weeks, and I am very pleased to announce that we have secured a publication slot for the document for 23 February—tomorrow. The purpose of the call for views is to help the Government understand where further action is needed to address the problem. If there is evidence to support changes to legislation, then we have promised to bring forward proposals in due course.

This information-gathering exercise will enable us to properly respond to the most pressing current threat caused by IPTV boxes. If there are other issues specific to unauthorised decoders that fall outside of the scope of this work, I would very much welcome details. We can then consider whether we need a further exercise to look at those distinct areas. The call for views runs for six weeks, until 5 April 2017, at which time the Government will assess the responses and determine the best course of action. The Government fully understand the harm done by illegal set-top boxes and IPTV, which is why it is crucial that we have a robust evidence base for effectively tackling this problem.

With regard to the manufacture of the hardware devices specifically, as your Lordships may expect, this usually happens outside the UK. That is why the IPO is working with partners across the world, including the Government's IP attaché in China, to explore what can be done in source and transit countries.

Having said all that, I very much take on board what noble Lords have said this evening, including the noble Lords, Lord Clement-Jones and Lord Stevenson. The noble Baroness, Lady Kidron, of course has talked, quite rightly, several times in your Lordships' House now, about young people and their digital habit, which starts frighteningly young. This is something we have to confront, and we sense the urgency with which we have to deal with this very real problem. Although I cannot make any commitment tonight, I hope that noble Lords will allow me to take this back and see if we can think of something more that we might be able to do. On that basis, I would be grateful if the noble Lord would withdraw the amendment.

Lord Stevenson of Balmacara: Before the noble Baroness sits down, could I just tease out what she has just said? Could that be read as a commitment to bring this back at Third Reading, so that we could spend a little time working out exactly what was required?

Baroness Buscombe: I cannot make a commitment that we will bring this back at Third Reading. We would certainly think more about it between now and then, but I can make no commitment that we would bring it back.

Lord Stevenson of Balmacara: I thank the Minister for her comments. I am sorry she is not minded to use the opportunity afforded by the fact that the Bill will go on until the end of March, which seems awfully close to the time by which she was suggesting that responses would be back, to enable us to make some progress on this. The points made by the noble Baroness, Lady Kidron, and the noble Lord, Lord Inglewood, are both right and bear on the same issue. It is clear that something is happening here that we could nip in the bud very quickly if we were able to take the appropriate powers. We are not specifying what those powers have to be, so we are not constraining the Government in how they might wish to take this forward, but quick action might prove more effective in the long run. Shutting this down would save us from the threat of it becoming a pest and a menace across all areas. I think it is worth testing the opinion of the House.

5.55 pm

Division on Amendment 20

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6.06 pm

Clause 30: Copyright etc where broadcast retransmitted by cable

Amendment 21

Moved by ***Lord Clement-Jones***

21: Clause 30, page 29, line 38, at beginning insert—

"( ) Any creator who has transferred his or her cable retransmission right to a broadcaster shall retain the unwaivable right to receive equitable remuneration for the exercise of the retransmission right."

Lord Clement-Jones: My Lords, I hope this will be a short debate. I was pleased to see the Government's response to the technical consultation on transitional arrangements, which in a sense is a quick response to the spirit behind Amendments 21 and 29, which I tabled in Committee. It is another pleasing and welcome indication of the speed with which the Government are responding to some of the arguments being made, such as the call for evidence on IPTV.

An unequivocal statement has been made, which I very much hope the Minister will repeat, to the effect that on the basis of the responses to this consultation, the Government have decided to repeal Section 73 without a transition period. I am assuming that if I get such a pledge from the Government, it will be upheld, and that there is no need to amend the Bill to that effect, but obviously I would very much like those assurances from the Government at this stage.

On the right to equitable remuneration where a creator has transferred his or her cable retransmission rights to a broadcaster, the concern is that if public service broadcasters are going to receive licensing income for carriage of their services on cable networks, those underlying rights holders—such as scriptwriters and directors—should receive an appropriate share of this new revenue. The Government in their new Clause 30 have made clear what happens to performing rights, because they deleted old paragraph 19 of Schedule 2 to the Copyright, Designs and Patent Act 1988. It has not, however, been made absolutely clear what the score is as far as the copyright of creators such as authors is concerned. I do not know whether the IPO has been able to give Ministers guidance on that. However, this is a probing amendment, and I very much hope that the Minister will be able to explain what is contemplated.

The problem is that where creators assigned their rights, that was in the old days. There may be licences in respect of which public service broadcasters attributed a zero value to retransmission rights, but of course, in future, those rights will not necessarily have a zero value. I therefore hope that the Minister can at least give some assurance that this issue is being looked at, and that at least some guidance or encouragement can be given to public service broadcasters to look again, in all equity, at some of their past rights clearances, so that creators will not be disadvantaged in the income they receive from what could be a new income stream for our public service broadcasters. I beg to move.

Viscount Colville of Culross (CB): My Lords, I voice my admiration for the noble Lord, Lord Clement-Jones, and his dogged determination to get Section 73 of the copyright Act repealed, and I am grateful to the Government for including its repeal in the Bill. Their response to the technical consultation seems to mean that it will be repealed immediately, but I too would like the Minister to assure us that it will be.

Baroness Buscombe: In Committee, and again here today, noble Lords have expressed their desire to see a swift repeal of Section 73. As I set out in Committee, the Government, through the Intellectual Property Office, have consulted on the technical aspects of the repeal, including on the question of a transition period, and committed to returning to this issue on Report following the publication of the government response to the consultation. The IPO published the Government's response to the technical consultation on 10 February. In summary, the responses did not see the need for creating a new rights clearance mechanism and were in favour of no or a very short transition period in connection with the repeal of Section 73. The Government agree with that view.

I therefore confirm to the House that Section 73 will be repealed without a transitional period and that no compulsory structure for licensing needs to be introduced. In coming to the decision not to have a transition period, the Government considered that the intention to repeal Section 73 was announced in summer 2015. The industry has therefore had plenty of time to prepare for the repeal. There is also the ongoing and pressing issue of online service providers continuing to rely on the Section 73 exception to permit the streaming of PSB content over the internet without seeking the necessary permissions or paying any licence fees. This can impact not only the copyright owners in the broadcast but the underlying copyright owners in the content carried within the broadcast itself. The Government regarded the resulting financial loss to the affected parties as an important driver for a swift repeal. The repeal will become effective on a date to be appointed by statutory instrument after Royal Assent is received for the Bill. I confirm that the Government will commence repeal without delay before the Summer Recess.

On Amendment 21, the IPO consultation also looked into the position of underlying rights holders in PSB content, such as musicians and scriptwriters, and whether new rights clearance mechanisms needed to be introduced. It concluded that there are already extensive commercial rights agreements in place between underlying rights holders, broadcasters and the platforms, and that these will be capable of factoring in the new rights, which will be reactivated following the repeal of Section 73.

Underlying rights holders already contract, on terms acceptable to them, with broadcasters and platforms in respect of rights that are not currently exempted by Section 73, such as underlying rights in non-PSB content and in programmes transmitted on all other non-cable platforms. As such, we do not think that statutory intervention in the manner proposed in the amendment is necessary.

In response to the question put by the noble Lord, Lord Clement-Jones, I want to make it clear that underlying rights holders already have in place rights agreements with broadcasters. Section 73 only ever applied to cable networks, so the value of underlying rights will have been factored in for transmission on all platforms.

I hope this explanation has assured the noble Lords that the purpose behind their amendment has been met. I therefore ask them to withdraw the amendment.

6.15 pm

Lord Clement-Jones: My Lords, I thank the Minister for the first half of her reply. She repeated pretty much what was in the response: no transition is envisaged and repeal is effectively to be commenced without delay, before the Summer Recess—I hope I have paraphrased her correctly. I take that very much on board, and I am delighted that the Minister has been able to confirm it.

[Lord Clement-Jones]

I am not quite so delighted by the second half of her reply. She says that underlying rights holders' rights have been factored into existing agreements, but that is just the problem: zero value has probably been attributed to the retransmission rights held by PSBs. Of course, until the repeal of Section 73 they will have zero value. After its repeal, value will be ascribed to them, but that means those who signed agreements in the past will not necessarily get the benefit, hence the reference in the amendment to equity. That is a rather important concept.

I will read carefully what the Minister has said—no doubt following the wonderful advice she has received from the Intellectual Property Office—and will discuss it with the Society of Authors and others who are very concerned about some of these issues. I might return to the matter at another stage of the Bill to tease out a little more information from the Minister. In the meantime, however, I beg leave to withdraw the amendment.

Amendment 21 withdrawn.

Amendments 22 and 23 not moved.

Amendment 24

Moved by ***Lord Clement-Jones***

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

"Transparency and fairness obligations

(1) Authors, artists and performers ("creators") shall receive on a regular basis timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights as well as subsequent transferees or licensees, and the information shall include information on modes of exploitation, revenues generated and remuneration due.

(2) The obligation in subsection (1) may be met by complying with a code of practice collectively bargained between relevant representative organisations of creators and the representative organisations of those who exploit their works, taking into account the characteristics of each sector for the exploitation of works.

(3) Any such code of practice is to provide that each creator is to be entitled to a statement of income generated under such licence or transfer arrangements at regular intervals during each annual accounting period, and provide an explanation as to how the creator's remuneration has been calculated referencing any contract terms relevant to the calculation.

(4) In the event of failure of a transferee or licensee mentioned in subsection (1) to comply with a code of practice, or in the absence of such a code of practice, the creator shall be entitled to apply to the Intellectual Property Enterprise Court for a detailed account of revenues due to the creator generated from the modes of exploitation referred to in subsection (1), and in the event of failure, the Court may award damages in the amount of any shortfall in the total amount due to him."

Lord Clement-Jones: My Lords, in Committee I explained the importance to authors and other creators of transparency, and the significance of the proposed new EU directive. The noble Baroness, Lady Buscombe, got the point entirely, as ever, and said the amendment would require those organisations exploiting copyright works via licences to provide the relevant creators with regular information on the use and the revenue they generate, and stated that this obligation could be met by complying with a code of practice determined at sector level, which is entirely correct.

I should add for clarity that, if there is a concern by licensees in those circumstances about the leakage of their commercially sensitive information, the way information is channelled can of course be dictated by a code of conduct through appropriate mechanisms, such as the advisers of creators and so forth. That is could be well catered for if there were concerns among those licensees or assignees.

The Minister confirmed that the Government were already engaged in discussions to address this issue. She said that,

"the UK will actively engage in these debates … before considering the case for domestic intervention".

She also said,

"it is worth giving careful consideration to the part that these industry-led initiatives can play",—[*Official Report*, 6/2/17; col. 1481.]

in terms of a code of conduct and so on. As I said at the time, though, she never actually agreed that the principle of transparency should be incorporated into law, whether directly or by transposition. Clearly, if the EU directive is passed within the two-year period after notice of Brexit is given, it may well be incorporated into UK law. The Minister gave encouragement to the principle but did not say that the Government fully supported that element of the directive. Article 14 of the draft directive is very clear in giving creators those kinds of transparency rights.

So I return to the fray on this occasion, and I hope the Minister can warm her words further in the face of this amendment being retabled. I beg to move.

The Earl of Clancarty (CB): My Lords, I support the amendment of the noble Lord, Lord Clement-Jones. He talked about the principle of transparency, and that is the nub of it. I shall just give an example: the history of pop music has, in many ways, been the history of exploitation of artists in a bad way. Much of that exploitation was based, in the past, on keeping artists in the dark. I am sure that today many licensees and transferees—some of which are huge companies—behave very well, but there is a systemic imbalance here, which means that there is potential for abuse. Artists have a fundamental right to information about exploitation of their work, which is, in any case, useful for knowing quite simply what has happened to their work when it is pushed out into the world.

Baroness Jones of Whitchurch (Lab): My Lords, I am grateful to the noble Lord, Lord Clement-Jones, for raising this again today. As both previous speakers have said, it is a really important issue for authors, writers and musicians, who are operating in an increasingly complex world where it is very hard to keep tabs on the use that is being put to their own creative work and the way it is being distributed and accessed. As a result, many in the sector feel that they are not properly rewarded for their creative endeavour. It is obviously crucial to us that we encourage them to continue to be creative and help them to be fairly rewarded because, as we increasingly begin to recognise, that creativity is

not only important to them but will be an essential bedrock of the UK's future prosperity in the years to come.

The noble Lord quite rightly raised the issue of the draft directive on copyright, and he quoted the Minister's reliance on the discussions of that draft in her response in Committee. However, as with other pieces of draft EU legislation, there is now a horrible feeling that the clock is ticking and that time might run out before the directive can be transposed into UK law. Therefore, we very much support the noble Lord in his bid to bring more certainty to the lives, and the incomes, of our much-valued creators.

I would like to raise two further points. First, the amendments as they stand assume that all publishers have the facility to provide regular statements of income outside the normal accounting periods. This is indeed easy for the large publishers, which already have author portals where this kind of detailed information is uploaded in real time and accessible to authors and their agents on a daily basis. However, we should also spare a thought for the smaller publishing houses, whose growth we also want to encourage, and which might not have such sophisticated accounting systems. The wording of the amendments might be rather too prescriptive or open to interpretation in this regard. We do not want to add too much of an extra burden to those smaller organisations.

Secondly, and perhaps more importantly, the amendments do very little to help those authors who are beholden to Amazon, which publishes 90% of e-books and is responsible for a significant proportion of physical book sales. Its behaviour in driving down prices through heavy discounting is seriously damaging the incomes of authors and publishers alike. Therefore, you can have transparency and fairness, but we will not add much more value back into the creative sector unless steps are taken to curb the monopolistic behaviour of Amazon. Perhaps the Minister could advise us as to what steps are being taken to monitor that increasing dominance of Amazon and to look at the impact it is having on the income of people who are trying to be creative and whom we very much want to value. At what stage would the Government take steps to intervene to make sure that those incomes are, in some way, protected for the future?

Baroness Buscombe: My Lords, I thank all noble Lords who have taken part in this debate on Amendment 24, tabled by the noble Lords, Lord Clement-Jones and Lord Foster. This amendment, which was first tabled in Committee, partly reflects proposals currently under discussion at European level as part of the draft copyright directive, as noble Lords have said this evening. It would require organisations using copyright works via licences to provide creators with regular information on how their work has been used, and the revenue generated by their use. This obligation could be met by complying with a code of practice determined at sector level. The amendment also provides creators with recourse to the intellectual property enterprise court in cases where such a code was not implemented or adhered to.

As we said in Committee, the Government agree that transparent markets can benefit all parties. I particularly understand the potential benefits of transparency in areas such as the creative industries, where individual artists—writers, musicians and performers, as noble Lords have said so eloquently this evening—often deal with large corporations. As noble Lords are aware, the Government are currently in the process of negotiations on the draft copyright directive, and I continue to hold the view that we should allow this process to reach a conclusion before considering the case for domestic intervention. I appreciate that the noble Lords, Lord Clement-Jones and Lord Foster, the noble Earl, Lord Clancarty, and the noble Baroness, Lady Jones, would welcome a firm statement of support for the Commission's proposals in this area. Unfortunately, however, I am not in a position to give such a statement this evening. However, I can assure noble Lords that the information received in the recent call for views on the directive has been carefully considered, and that the Government will continue to engage constructively in this debate, including in relation to the role of collective bargaining mechanisms and industry-led codes in improving reporting to creators.

I also wish to raise another issue regarding the amendment. The proposals from the European Commission include an ability for member states to adjust or restrict the transparency obligation in certain cases, taking into account, for example, the contribution of an individual creator to an overall work, or the proportionality of the administrative burden. Views on the benefits of these powers are mixed, and are likely to require careful consideration with the creative industries at sector level if the directive comes into force in the UK. However, I believe that it would be imprudent to accept an amendment at this stage that does not appear to provide the Government with similar flexibility. Doing so could risk imposing burdens on publishers, producers and broadcasters that restrict their ability, in effect, to develop new talent. With this explanation and the renewed assurance that the Government really do take the concerns of creators in this area seriously, I hope that the noble Lord will withdraw his amendment.

Lord Clement-Jones: My Lords, I congratulate the noble Baroness, Lady Buscombe, on finding a new argument at the end; I thought that was magnificent. Imprudence is something that I would never want to be accused of in these circumstances. I thought that this amendment did not reflect fully what Article 14 contained. The Minister was absolutely right: it was entirely the intention that it would not contain that, because of the difficulty of interpretation. It is possible to do that more easily in continental law, rather than when you transpose it into UK law. I shall be very interested to see what our parliamentary draftsmen make of it, if ever they are faced with the task of transposing Article 14 into UK law.

I like the sound of "engage constructively". I know that the Minister's heart is in the right place and I think she said something like, "We really do mean this", so the sincerity was utterly apparent. In the face of that, how can I do anything but withdraw the amendment? I beg leave to withdraw.

Amendment 24 withdrawn.

Amendment 25

Moved by ***Lord Stevenson of Balmacara***

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

"Code of practice on search engines and copyright infringement

(1) The Secretary of State may impose by order a code of practice ("the code") for search engine providers with the purpose of minimising the availability and promotion of copyright infringing services, including those which facilitate copyright infringement by their users.

(2) Any order made under subsection (1) must include appropriate provisions to ensure compliance with the code by the providers.

(3) Before imposing the code under subsection (1), the Secretary of State shall publish a draft of the code and consider any representations made to him or her by—

(a) search engine providers,

(b) rights-holders and their representatives, and

(c) any other interested parties.

(4) The Secretary of State shall regularly review the code to ensure that it provides the most appropriate mechanism to satisfy the purposes set out in subsection (1)."

6.30 pm

Lord Stevenson of Balmacara: My Lords, I move Amendment 25 and am grateful for the support of my noble friend Lady Jones and the noble Lords, Lord Clement-Jones and Lord Foster.

This is a rerun of an amendment that we tabled in Committee. At the time, discussions were in place between rights holders and those who operate the search engines, which are the focus of the amendment, and we were not sure how that would play out. We were promised much, and the Government have again delivered—which is becoming too much of a refrain for my liking. A voluntary code has been agreed between the parties, signed up to and issued—there has been press notification about it, so it must be true. The question is: what will it do? That has not been answered. We have discussed what it might do, but we have not yet seen the wording of the voluntary code. I ask the Minister to circulate to those participating in the debate what is in the much-vaunted code, so that we have a sense of whether it will achieve its purpose.

My concern from what I have heard is in three parts. First, it is large copyright-owners and large inquiry systems such as Google that are involved. That begs the question of whether those who are less able to exercise their rights—particularly those who have individual or small parts of rights in small productions—will have any voice. The reporting that I have read talks about rights holders and search engines working promptly on receiving responses about infringing content to ensure that these things are taken down.

Secondly, there is much talk of expanding efforts,

"to more effectively use such notices to demote domains demonstrated to be dedicated to infringement, and to work collaboratively with rights holders to consider other technically reasonable, scalable avenues empirically demonstrated to help materially reduce the appearance of illegitimate sites in the top search rankings".

I could read that again, because you would probably need to hear it again to have the faintest idea what we are talking about. I fear that it smacks of either a lowest common denominator approach or some hard arm-wrestling in the corridors where the discussion took place to get something that looks reasonable on paper. It does not smack of a real commitment to scourge out the terrible way in which search engines have referred people who should have known better to material that was not cleared for copyright and should not have been made available to them through that route. There is also talk about,

"work to prevent generation of Autocomplete suggestions which lead consumers towards infringing websites".

It says that work will be done to prevent it, not that it will be stopped.

"Search engines will provide, or continue to provide, processes to promptly remove advertisements",

linked to searches. So my second point is that this all looks pretty good on the surface, but will it work in practice? I have my doubts.

Thirdly, it will be run by the Minister of State for Intellectual Property, who,

"will oversee the implementation of this Code of Practice, supported by quarterly meetings of all parties, and set requirements for reporting by search engines and rights holders on any matter herein, including in particular those matters where the Code of Practice calls for ongoing discussion".

At last, we get it:

"The Minister shall review the effectiveness of the Code with the parties after one year, and ensure continuing progress towards achieving the Shared Objectives"—

which is, rather nicely, in my copy, in capital letters, so they must be really important.

It is easy to lampoon this. I am sure it is a good step forward in the right direction, and we wish it well, but I wonder whether it will take the trick on this issue. As we said in a previous discussion, should there not be a backstop power; should these powers not be taken now by the Government to ensure that they can do something if it does not work, if some people move away from it, or if new entrants to the market feel that they have no responsibility to be part of it? These are open questions. There may be a way through, there may not, but we have no way to resolve that because this is a voluntary process.

It took a long time to get to the voluntary code: the working group has been meeting on and off for three or four years, so we know that this is not an easy nut to crack. It is an issue that causes a lot of annoyance and concern. It also affects the earnings of those who have rights that have been abused in this way. There is a feeling—I put it no stronger than that—among those who perhaps know more about this than I do that the search engines do not want to go any further because they fear statutory provision. In other countries and territories—indeed, in America—there is statutory provision, and that has made the difference over there. Why are we not doing that here?

There are a lot of questions about this. The amendment would give a solution to the Government if they wished to take it. I hope that they will consider it, and I beg to move.

Lord Foster of Bath (LD): My Lords, I am delighted to support the amendment in the names of the noble Lord, Lord Stevenson, and others. I am sure that all Members of the House recognise that there is a serious problem that needs to be addressed, although fewer

people are accessing illegal material on the internet as a result of the growing number of relatively cheap and easily accessible alternatives. We should welcome that and the fact that in this country we probably provide a wider range of alternative legal sources—for the downloading of music, for example—than any other in the world. Nevertheless, there continues to be a problem, with about 15% of UK internet users—about 6.7 million people—continuing to download and access illegal material. I therefore welcome any measures that can be taken to introduce ways to prevent that. Of course I welcome the voluntary agreement that has been reached. I congratulate the Minister for Intellectual Property, who I know has worked very hard with the relevant parties, including the IPO, to secure the voluntary code. As the noble Lord, Lord Stevenson, said, the details have still to be worked on and there will be a review in 2017.

I ask the Minister to reflect seriously on this key point. In opposition, I have spent a lot of time moving amendments to various proposals that the Government "may" do something to delete "may" and insert "must". On this occasion, I am delighted to support the amendment, which says that the Government may do something, if the need arises.

The Department for Culture, Media and Sport is rarely given credit for the important role it plays in the life of this country. As a result, it rarely has opportunities to have legislation before the House. While the Minister may tell me, as she did in a previous debate, that should the voluntary code not work, the Government will consider taking legal action at some point, she would find it difficult to find a legislative peg on which to hang that action.

The Intellectual Property Alliance and others have suggested that we need a backstop mechanism in the event that the code, which we welcome, is unsuccessful in future. For that reason, I hope that the Government will be willing to accept what is a simple amendment giving them power in future if they need it.

Baroness Buscombe: My Lords, Amendment 25 returns to the topic of search engines and copyright and would give the Government power to impose a code of practice on search engines to minimise the visibility of copyright-infringing websites in search results.

As we have discussed previously, this is an area in which we have been seeking a voluntary agreement between search engines and rights holders, and I am pleased to be able to confirm that we now have that agreement and have finalised the text of a code of practice. This newly agreed code sets out clear targets for reducing the visibility of infringing websites in search results. The code also specifies a number of areas where rights holders and search engines have agreed to work together with the general aim of supporting legitimate content and reducing piracy. We have always been clear that action is needed in this area and it is a manifesto commitment. But we have also been clear that a voluntary agreement would be quicker, more flexible and, most importantly of all, more collaborative than a legislative intervention. We now have that voluntary agreement and the parties to the code are already working to deliver on the commitments it contains. All parties to the agreement have engaged in these negotiations and the work to date in good faith. They are continuing to work in good faith and I am confident that that will also be the case for work going forwards.

The noble Lord, Lord Stevenson, questioned whether it would be possible to have sight of the code. We do not plan to publish the code in full because details about the number of copyright infringement reports a site can receive before it is demoted might allow pirates to game the system. We are, however, very happy to share the commitments in the code in more general terms.

We understand where noble Lords are coming from in seeking a backstop power, but I return to that word "collaborative". We have come a very long way in what we have achieved thus far. I can remember working and having discussions with search engines in years gone by, trying to encourage them to respect and accept responsibility for what they do and the impact they can have on others. In that sense, we believe very strongly that we should continue with that collaboration and not consider a backstop power. We do not believe it is necessary. With that explanation, I hope the noble Lord will accept that a statutory power is not needed at present and thus feel able to withdraw the amendment.

Lord Stevenson of Balmacara: Although I am grateful to the Minister for her robust comments about our amendment, I profoundly disagree with them. I cannot see this agreement lasting and believe that there will have to be a backstop power at some stage. Surely the truth is that if it was necessary in America to introduce legislation to get that system to work, it is bound to be necessary in other places where those with the large rights holdings may feel they can operate in a way that is not necessarily in the best interests of consumers in the United Kingdom. I still think, as the Minister touched on at the end of her peroration, that this is something that we will have to drag the search engines towards, because it is not their business model. Their concern is to make sure that they get as many people coming to them and through them to other portals in other areas that they can get to. Their interest in engaging in that is something we will return to in future legislative arrangements. I think that they will be unable to sustain a position in which they act as neutral transferors of other people's issues and wishes, because it does not work. They will have to accept that they have responsibility to work to make sure that the worst excesses at the moment are resolved in a way that does not hurt rights holders.

At the moment, it is a "large copyright holders against large search engines" agreement, and on that level it might operate. I do not think it will be effective. I do not think it is sustainable because there will be new people coming in and business models and practices will change—we cannot foresee that. Power will be necessary. If the Government will not seize a gift that is worth a lot of future pain and help them avoid the difficulties they will face in trying to find the legislative time—as the noble Lord, Lord Foster, said—to put this in, we cannot make them do it. I beg leave to withdraw the amendment.

Amendment 25 withdrawn.

6.45 pm

Amendment 25A

Moved by ***Baroness Janke***

25A: After Clause 30, insert the following new Clause—

"Review of sale on the internet of counterfeit electrical appliances

(1) Within six months of the coming into force of this Act, the Secretary of State must commission a review of the sale on the internet of counterfeit electrical appliances.

(2) The review must consider whether operators of trading websites that allow individual sellers to use those websites to sell electrical items should be required to report to the police and trading standards authorities any instances of the selling of counterfeit electrical appliances which are arranged through their website.

(3) The Secretary of State must publish the report of the review, and lay a copy of the report before each House of Parliament."

Baroness Janke: My Lords, I have resubmitted this amendment because we consider this to be a matter of concern. As I have said, the large majority of these counterfeit goods are sold through internet portals and their sale has often resulted in fires and damage. They undermine well-known brands and are a great danger. It is no surprise that the Electrical Safety Council is drawing attention to this issue and wants the Government to address it.

When I previously raised this issue, the noble Baroness, Lady Buscombe, mentioned Operation Jasper and the trials that are being carried out with counterfeit goods. I have since learned that electrical goods are not included in this project and that is why I have resubmitted the amendment. We need some action on this problem. If the noble Lord or the noble Baroness can assure me that they will take this forward—perhaps meet with the Electrical Safety Council—and look at how progress can be made, I will be happy to withdraw the amendment. But the Government must consider taking action on what is an increasing danger and a growing problem. It is perpetrated through internet portals and the people who provide the online retailing must look at the problem too and take some responsibility. I beg to move.

Lord Ashton of Hyde: My Lords, I am grateful to the noble Baroness for waiting patiently for the last group of amendments. By the standards of our Committee deliberations, this is pretty reasonable—we have done well. I am also surprised that Opposition Members have been longing to give us delegated powers and allowing us to say "may" instead of "must", which we have nobly resisted. But this amendment has gone back to a more traditional view, which is to make the Government formally review and report on sale of counterfeit electrical goods on the internet. We did, as the noble Baroness said, discuss this very issue in Committee and a similar amendment was withdrawn. Being serious, the sale of any type of counterfeit goods obviously has the potential to harm consumers and the economy and, importantly, damage traders who do business legitimately; and it often supports organised crime. As my noble friend Lady Buscombe said, the Government take this matter very seriously, which is why the Intellectual Property Office is committed to tackling counterfeiting of all kinds.

Since we discussed this issue in Committee, the IPO has continued to push forward with the work outlined in the Government's IP enforcement strategy. Officials from the IPO have now met with representatives of all the main online sales platforms in the UK to discuss what steps they are taking to tackle the sale of counterfeit goods, as well as devices which may facilitate copyright infringement. I am reassured to hear from those conversations that the main online players in the UK all share our concern about this issue.

We have also made it very clear that we expect these platforms to continue to develop and improve the systems they have in place to tackle counterfeiting. They have given us details of a number of steps they are taking to do just that. This is an evolving area, with criminal behaviour and technology both changing as we go along, so we will continue to engage with those platforms and their equivalents in countries such as China to ensure that IP rights and the safety of consumers remain a priority across the board. As a separate work stream, police, trading standards and industry representatives have continued to work on Operation Jasper, tackling the sale of counterfeit goods via social media. This work has been ongoing for some time and is an excellent example of the value of the collaborative approach in this area.

In addition to this work, the IPO has now started to gather data for the next edition of the annual *IP Crime Report*. It will be published in September of this year and will contain the best available evidence on the scope and scale of counterfeiting in the UK, and will include material about the sale of electrical goods online. In the light of such work and the other elements of the strategy that we have discussed previously, in the Government's view it is not necessary to have a statutory commitment to review and report on counterfeit electricals this time. The noble Baroness made a generous offer, and I hope I have done enough to persuade her to withdraw the amendment.

Baroness Janke: I thank the noble Lord for his response. Certainly, his comment that electrical products are specifically being taken into account is reassuring. Will he write to me indicating in what way those goods are being incorporated in the trials, as there is a huge difference between a counterfeit handbag and counterfeit electrical goods? Although the response I received previously stated that trials were going on, it did not deal specifically with electrical goods. If the Minister would be kind enough to provide information on that in a letter, I will happily withdraw the amendment.

Lord Ashton of Hyde: I am certainly happy to do that. I have a note on counterfeit electricals that I cannot read, so I will provide that information in writing.

Baroness Janke: I thank the noble Lord. I beg leave to withdraw the amendment.

Amendment 25A withdrawn.

Consideration on Report adjourned.

Nutrition: Women and Girls

Question for Short Debate

6.51 pm

Asked by ***Baroness Manzoor***

To ask Her Majesty's Government what action they are taking to improve standards of nutrition for women and girls globally.

Baroness Manzoor (Con): My Lords, I noted with great interest that 190 noble Lords spoke over the last two days on the European Union (Notification of Withdrawal) Bill, and that the debates did not conclude until nearly midnight on both days—indeed, after midnight on the first day. Therefore, I am particularly grateful to noble Lords for staying late again tonight and for speaking in this debate, for which I thank them.

International Women's Day will take place next month and last month there was a debate in this Chamber on employment skills for women and girls. This debate is therefore very timely. As someone who has worked extensively in the NHS, I have seen at first hand just how critical good nutrition is for survival, recovery, good health and well-being. Good nutrition is the foundation for development. Without the right nutrients at the right time, none of us would grow to fulfil our physical or, indeed, cognitive potential.

While my contribution to this debate focuses on the urgent need to tackle undernutrition in low and middle-income countries, as that is where much of the burden of undernutrition is in women, girls and children, let us not pretend that, as a rich country, we are immune to these issues. Every country in the world suffers from one or more forms of malnutrition, be it undernutrition, overnutrition or micronutrient deficiencies.

Just as in Pakistan, India or Malawi, without good nutrition our economy suffers, our society suffers, and, as individuals, we suffer too. SDG 2, to which we as a country are signed up, and fully support, states:

"End hunger, achieve food security and improved nutrition".

Point 2.2 of the goal states,

"by 2030 end all forms of malnutrition, including achieving by 2025 the internationally agreed targets on stunting and wasting in children under five years of age, and address the nutritional needs of adolescent girls, pregnant and lactating women, and older persons".

Some good progress has been made but despite all the progress we have seen in recent years, sadly, undernutrition, much like poverty, is sexist, given that 70% of the 1.3 billion people in poverty on this planet are women. Of all those who are undernourished worldwide, 60% are women. In 2013, a woman's life was lost in pregnancy or childbirth every two minutes, with anaemia being a major risk factor impacting around one in five deaths.

I was very fortunate to visit India last year with RESULTS UK. Uttar Pradesh is the largest state in India with a population of 200 million. According to the Rapid Survey on Children, in 2013-14, it was the home of 21 million children under five. Some 50% of the children had stunted growth, 10% had wasted muscles and 34% were underweight. It was also evident that adolescent pregnancy and anaemia contributed to a high prevalence of low birth-weight and subsequently undernourished children. However, I was pleased to note that education and nutritional programmes had been commenced to tackle these issues in the state.

Worldwide, it is estimated that more than 200 million children under five fail to reach their full development potential largely due to malnutrition. Women make up 63% of adults without minimal literacy skills and 18 million girls a year are forced into early marriage. We must not forget older women. Many of the diseases suffered by older people are the result of dietary factors, some of which have operated since infancy. These are compounded by the ageing process. It is noticeable that many Governments have few policies to prevent undernutrition in older women.

Inadequate diet and malnutrition in older women are associated with a decline in their functional status, impaired muscle function, decreased bone mass, immune dysfunction, anaemia, poor wound healing and delay in recovering from surgery and higher hospital rates and mortality. Women suffer 80% of all fractures due to osteoporosis, with diet being a key factor in this. Shocking statistics such as these are not scarce and certainly cannot be addressed without a change in approach. The Food and Agriculture Organization recognises gender inequality as both a cause of, and result of, malnutrition. We must acknowledge this inextricable link if we want to get to grips with the scourge of malnutrition.

I am proud that the UK Government have stepped up to the plate when it comes to championing good nutrition and have set the bar high. They held the Nutrition for Growth summit in London in 2013. I am sure that the Minister will say more about the impact that UK aid is having on nutrition for women and girls but it is crucial that we keep up the pace. Just a one-off N4G event cannot help us end undernutrition in vulnerable and disadvantaged groups. What is key, especially in this current climate of some anti-aid sentiment, is maintaining the political leadership. I am therefore pleased to learn that the Secretary of State for International Development intends to increase spending on nutrition, and I commend her for that. Will the Minister say what the Government's plans are to increase investment in, and expand programmes for, women's and girls' nutrition in 2017? For instance, can we expect a big initiative such as Nutrition for Growth to show our Government's continued commitment to this issue, and through which they could encourage other Governments to step up their efforts too?

While it is crucial to have the resources to carry out this important work, it is equally important to identify the right places to invest them. Programmes such as Supporting Nutrition in Pakistan, involving food fortification with iron and folic acid, and other efforts in agriculture and sanitation are being led by the World Bank, the Australian Aid agency and NGOs with a strong understanding of this issue, such as the Canada-based Micronutrient Initiative. These are good examples of how the UK is leading efforts on women's and girl's nutrition in partnership with other stakeholders. Another superb initiative is the Scaling Up Nutrition movement.

[Baroness Manzoor]

I am sure we all agree that aid alone will not solve this problem. We all want to see countries stand on their own two feet and lead this fight. By bringing together civil society and Governments across 58 of the world's poorest countries, SUN is developing a unique platform that can facilitate the kind of shared learning that drives country ownership. I saw this first hand when I visited Uttar Pradesh. I would be interested to hear about the Minister's assessment of SUN and whether his department has plans to scale up support for the movement given the importance of the work it does.

It is also important here to talk about adolescent girls, as they are such a critical link in the cycle of malnutrition and poverty. The aid agencies and NGOs are doing an important job in improving nutrition among other demographics, but there is evidence that adolescent girls are still being left behind. One in three girls aged 15 to 19, in countries where data are available, are anaemic. This is absolutely shocking. How can we expect adolescent girls to attend school—forget excelling —when they are constantly weak, dizzy, lack concentration, and at risk of disease through reduced immunity? I appreciate that there is a huge blind spot in data and in our knowledge of the nutritional status of many of these girls globally. However, this is an area where the UK could lead the way, with much greater outcome-focused programmes and research.

Another area where I see space for greater impact and value for money is through better integration. Given the links nutrition has with other development sectors, such as health, agriculture and education, perhaps more could be done to better integrate nutrition into DfID's other aid programmes. I hosted a round-table discussion in this House just before Christmas with RESULTS UK, and I was pleased to hear the DfID official in attendance state that steps were already under way to better combine health and nutrition programming. It is crucial that, where possible, DfID includes specific nutrition objectives and indicators in its other programmes that have an indirect impact on nutrition outcomes for girls and women. Perhaps the Minister could share with us a little bit about the progress in this key area.

To conclude, on a more general note, like many noble Lords in your Lordships' House, I was deeply concerned when I heard about the reversal in the United States of the Mexico City policy, or the gag law, as it is otherwise known. Increasing access to family planning services—I say this as I was a midwife and a health visitor in my early twenties—is one of the most practical solutions to reducing malnutrition in women as well as giving women basic empowerment over their own bodies. Bill and Melinda Gates have already made it clear that,

"this shift could impact millions of women and girls around the world",

and,

"could create a void that even a foundation like ours can't fill".

I echo this concern and ask the Minister what assessment the Government have made of the impact of this policy change on our own aid programmes and how they might be affected.

At times like these, bold UK leadership is more important than ever. As a nation, we have made the decision to leave the European Union, giving us the opportunity to forge a new role for ourselves in the world. Our commitment to the world's poorest and most vulnerable has seen us, in recent years, become the only G20 country to allocate 0.7% of GNI to overseas aid. We should stand tall and be proud of this commitment, carrying it forward with us as we make the important strategic decisions that lie ahead. Delivering the Conservative Party 2015 election manifesto pledge to improve the nutrition of 50 million people by 2020 is the perfect way to do this, and would demonstrate to the world that Britain is a compassionate and outward-looking global leader, committed to improving the lives of the world's poorest—better nutrition for better lives.

In conclusion, I put on record my appreciation and thanks to RESULTS UK and Age International for supporting me in the preparation of this debate.

7.04 pm

Baroness Thornton (Lab): My Lords, I congratulate the noble Baroness on bringing this important debate to the Floor of the House. I put my name down to speak in it because I wanted to identify myself and these Benches with this important issue—which my noble friend will also do—and at the end of my remarks I have a few questions for the Minister to consider.

It is inevitable that statistics will be bandied about during a debate like this, and some of them are startling and shaming. Malnutrition is partly responsible for 45% of childhood deaths. It destroys the most human potential on the planet. Children who are stunted are not just below their global peers in height but are behind them in cognitive development, and that will limit these children their whole lives. Nutrition is the biggest missed opportunity in global health, and were it solved, it would unleash waves of human potential. Yet overall, only 1% of foreign aid goes towards basic nutrition. Malnutrition is not starvation; malnourished children can be getting enough calories but not the right nutrients. That makes them more susceptible to conditions like pneumonia or diarrhoea—and more likely to die from them.

Over half of the world's population lives in cities, a trend that will accelerate more quickly in the coming decades. In many cities, over half the population lives in informal settlements and slums, and rates of malnutrition are exceedingly high. Urban food systems in many countries are not developing rapidly enough to cope with the challenges of a fast-growing population, a factor which increases obesity levels as traditional diets are swapped for snacks and high-energy foods. So in many ways the global food system is broken.

Estimates seem to vary, but GAIN says that in total about 3.5 billion people—half the people on the planet today—are malnourished in one way or another. Each day, 795 million people go hungry. Each year, malnutrition undermines billions of people's health. It kills probably 3.1 million children under five and leaves 161 million stunted. Rapid population growth and climate change pose new challenges to an already overburdened food system.

It is clearly obvious—I know that the British Government agree with this—that solving these problems can be done only as part of a collective global effort.

There are some simple and some not so simple solutions. Breast-feeding within the first hour and exclusively for the first six months is the first and simplest intervention and has long-term benefits for nutrition. However, of course it needs the mother to be healthy enough to breast-feed, and it requires the culture surrounding her to encourage her and requires her to understand that that is the best start she can give her child. Of course, the noble Baroness is quite right that this is a women's issue in particular.

Experts are also figuring out how to breed crops with higher nutritional levels and how to get key nutrients in the food supply, in either salt or cooking oil. Those are promising approaches. However, nutrition is still one of the biggest mysteries in global health. Nutrition gets better as a country gets richer, but it does not seem to have any noticeable effects on positive outliers—there are poor countries with almost half their children undernourished.

In exploring some of the solutions put forward in this area, I came across the Nutrition Knowledge Bank—part of the GSMA mNutrition initiative to help tackle malnutrition in Africa and Asia—which is a collection of content on good nutritional practices and includes downloadable factsheets and mobile messages. This is not the complete answer, but it must be part of the solution, which is to do with knowledge and accessibility and using modern technology to improve nutritional practices, particularly for women and the vulnerable groups we have mentioned. I was struck by the work being undertaken by mNutrition in the various places in the world where it works.

The noble Baroness mentioned the targets that the World Health Organization put forward in this area. The *Comprehensive Implementation Plan on Maternal, Infant and Young Child Nutrition*, which the WHO endorsed in Geneva in 2012, set some very high targets indeed for solving this problem. The plan proposes:

"40% reduction of the global number of children under five who are stunted … 50% reduction of anaemia in women of reproductive age … 30% reduction of low birth weight … no increase in childhood overweight … increase the rate of exclusive breastfeeding in the first six months … reduce and maintain childhood wasting to less than 5%".

Five action points flow from the World Health Organization's proposals. I will not go through those in detail, but I ask the Minister whether the British Government are working to the action plan, to what effect and with what resources.

When the British Government were tackling tobacco as a public health issue, one of the biggest drivers of change in governmental practice were the strong rules about discussions with the tobacco industry. What discussions have been had, and what is the relationship, between the Government or DfID and the food industry? Some of the large companies providing food throughout the world that is not nutritious are based in the UK and Europe. Are the British Government thinking about how to deal with this fact? Indeed, is the Minister being lobbied by some of our large food manufacturers? When we were addressing the issue of tobacco, tobacco companies switched their attention from the first world to the third world because that was where they could make their money. That issue occurred to me and I genuinely do not know what the answer to the question is, but it is one that we need to ask. Does DfID have guidelines on this matter?

Has thought been given to how we will continue to be a leader in our aid programmes, particularly on this one, in a world in which we will not necessarily be able to join forces with our European colleagues in a coherent way, given that a lot of our aid work is currently done through our relationships with the European Union? Also, what consideration has the Minister given to the changing attitude of the new Administration in the United States of America to world aid and to the United Nations and its institutions? I accept that it might be too soon to say, but these are things that we need to think about.

7.13 pm

Lord Collins of Highbury (Lab): My Lords, I too thank the noble Baroness, Lady Manzoor, for initiating this debate, which, I think, follows on from Questions. There is a consensus in this House on the 0.7% aid target and enshrining it in law. The reason for that is very practical: it allows the United Kingdom to support long-term sustainable development projects which really make a difference to the lives of the world's poorest and most marginalised people. The UK's commitment to improve the nutrition of 50 million people by 2020 is a good example of this, and is the example I would like the Prime Minister to write about in the *Daily Mail*. It is exactly these issues that we need to be focused on, and I therefore very much appreciate the noble Baroness's initiating this debate.

As we have heard from my noble friend and from the noble Baroness, Lady Manzoor, good nutrition is the foundation of sustainable development, and of building health and resilience. Twelve of the SDGs agreed in New York have indicators relevant to nutrition. Without strong nutrition, other health interventions are less effective. Nutrition interventions also promote economic development. Every $1 invested in nutrition achieves a $16 return in benefit. That is the key message of our overseas development work, which we should put into the media in order to respond to some of the ridiculous arguments that have been made. Countries lose at least 10% of their GDP because of malnutrition. It stagnates personal, societal and national development. That is why it is so key that we make progress on this. As we have heard, for women and girls, who are often most vulnerable to under nutrition, nutrition interventions are crucial for supporting their full development potential.

The second SDG is to:

"End hunger, achieve food security and improved nutrition".

Its second target is:

"By 2030, end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age, and address the nutritional needs of adolescent girls, pregnant and lactating women and older persons",

as the noble Baroness, Lady Manzoor, pointed out. Older women are particularly vulnerable to malnutrition, and attempts to provide them with adequate nutrition encounter many practical problems. Their nutritional

[Lord Collins of Highbury]
requirements are not well defined and ageing affects nutrient needs—some requirements increase while others decrease.

As we have heard, good nutritional status reduces maternal deaths, improves school outcomes, and contributes to delayed marriage and pregnancy. It saves lives, improving potential and promoting progress, alongside intergenerational health and prosperity. The onset of menstruation in adolescent girls results in a much higher demand for nutrients. Not receiving them can lead to anaemia, which compromises growth and causes fatigue, dizziness, weight loss and reduced immunity. The impact of poor nutrition on maternal health is irrefutable: deficiencies of essential micronutrients and energy during pregnancy can cause maternal complications and haemorrhages and, in many cases, as we have heard, mortality. Nutritional deficiencies can also contribute to foetal birth defects and foetal or new-born mortality. There is no doubt that improving nutrition, alongside good antenatal care, can improve these numbers dramatically. Good nutrition is crucial for unlocking the potential of women and girls across the life cycle and for giving them the best opportunity to become active members of their community.

As my noble friend highlighted, around half of under-five deaths can be attributed to underlying malnutrition. Malnourished children are nine times more likely to die from common childhood infections such as pneumonia and diarrhoea, and improved nutrition is key to changing the prospects of many. In low-income countries, 37.6% of children aged under five are stunted. They are likely to grow into stunted adolescents. For girls, this means they face a higher risk of pregnancy-related complications. Stunting is one of the leading causes of death among this demographic. Over 2 billion people suffer from micronutrient deficiencies. Anaemia, often a result of iron deficiency, affects 500 million women of reproductive age and is responsible for nearly 20% of maternal deaths. In 21 countries out of 41 with data on anaemia prevalence, more than one-third of adolescent girls are anaemic. Undernutrition has a devastating impact on the physical and development potential of girls. Malnourished adolescents go on to lose around 10% of their lifetime earnings as adults. This affects the economic development of these countries which is so vital if we are to change and challenge poverty in our world.

As my noble friend Lady Thornton and the noble Baroness, Lady Manzoor, said, we can be proud of the United Kingdom's leading role in the world in the fight against malnutrition. Certainly, this commitment was renewed in the recent bilateral development review, about which we have spoken in this Chamber, following on from 2013 when the UK hosted the inaugural nutrition for growth conference in London and made financial commitments—£655 million for nutrition-specific interventions and £604 million for nutrition-sensitive interventions until 2020. As the noble Baroness, Lady Manzoor, said, the Government, as part of their 2015 manifesto, pledged to improve the nutrition of 50 million children aged under five, women of child-bearing age and adolescent girls in developing countries by 2020, which is the N4G commitment.

However, despite these commitments, the world is not on track to achieve the 2025 global nutrition targets. We need to fundamentally address these issues. I welcome DfID's plan to improve the nutrition target by 2020 and I urge the Minister to commit the Government to invest a further £530 million after 2020. DfID should rapidly disburse its 2013 commitments to nutrition and increase its ODA to nutrition, because it is the key to development; £530 million of new money should be invested between 2016 and 2020 because good nutrition, as we know, has a significant impact on improving women's economic development, as well as on health.

We need an integrated approach which delivers nutrition as part of a package of wider health and poverty reduction intervention and improves the value for money of health investments. I hope the Minister will support the scaling up of nutrition-specific interventions to tackle all forms of malnutrition and the integration of these interventions into the design and delivery of reproductive, maternal, new-born child, adolescent and other health programmes.

In 2015 the Government made a commitment to leave no one behind in their development work. DfID should ensure that nutrition programmes target and improve nutrition for the most vulnerable and hardest to reach. Does the Minister agree that to do this, DfID should produce disaggregated data for prioritising investments, with a focus on high burden irrespective of low/middle-income status, and allocate resources to strengthen national information systems to ensure that we have that proper and adequate data?

7.23 pm

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, I join other noble Lords in paying tribute to my noble friend Lady Manzoor for securing this debate. The subject is dear to heart. She has devoted her professional life to it and brings that experience into your Lordships' House. Her convening of the round table before Christmas enabled an exchange of views with the DfID officials who attended and was helpful in shaping our policy in relation to this issue. I also thank the noble Baroness, Lady Thornton, and the noble Lord, Lord Collins, for their thoughtful contributions from the Labour Benches on these matters. They rightly pointed out that nutrition is the basis, the building block, for all other development. It is crucial, not only in the sustainable development goals but as a woman's issue in the lead-up to International Women's Day.

As an aside—I hope the House will bear with me—I am particularly disappointed that we have not heard from the Liberal Democrats; in fact there is no one on their Benches. Normally I would not make reference to that but, because I have had some extra information as to why that may be the case, I want to put on record that this is an important issue that is central to development and we should focus on it and make sure our voices are heard.

Malnutrition still affects one in three people globally. It is holding back the growth and development of both people and countries. Women affected by undernutrition are more likely to give birth to small

babies, and those babies will be disadvantaged throughout their lives. Undernourished children are more likely to die young, contributing to 45% of all under-five deaths. Children who survive do less well at school, have 10% lower lifetime earnings and are more likely to have undernourished children themselves.

The economic consequences of undernutrition in affected countries represents a loss to GDP of 10% year on year, whereas every pound spent on reducing stunting has an estimated £50 to £60 return in increased incomes and economic growth. Therefore, tackling malnutrition is critical to reaching at least 11 or 12 of the global goals. Eradicating disease, ending extreme poverty and empowering women will happen only if they are free from malnutrition. A healthy, prosperous and stable world is much less likely while malnutrition persists.

Nutrition is a long-term development challenge and an immediate humanitarian challenge. In 2017 the world is facing unprecedented humanitarian needs. A famine in South Sudan was declared today, along with Her Majesty's Government's response to it. It is a call to arms for the international community to respond much more effectively and urgently to the challenge already in South Sudan and just around the corner in Somalia, north-east Nigeria and Yemen. The international community must get much more to the forefront of these issues. However, as the noble Lord, Lord Collins, said, we can rightly be proud of the fact that the UK is leading in this area. We support the comments and remarks of the Secretary of State, Priti Patel, made today to the international community.

UK aid on the ground is saving lives. Now we are calling on the international community to step up its support. The longer we wait, the higher the price humanity will have to pay. For all these reasons, improving the nutrition of women, girls and children in general is a top priority for our work in developing countries. It is for these reasons that at the Nutrition for Growth summit in 2013, to which my noble friend Lady Manzoor and the noble Lord, Lord Collins, referred, we pledged to invest more in programmes that address both the immediate and underlying causes of malnutrition. It is for these reasons that in 2015 the Government committed to the nutrition of 50 million people—women, girls and children—globally by 2020.

Delivering this result will be a priority for DfID, with a focus on quality and value for money. I am pleased to say that we are on track to do that, thanks to the work we are doing to scale up on nutrition across the 20 priority countries that we have identified. More broadly, we are far from complacent. In the coming months my right honourable friend the Secretary of State will launch a new UK position paper on nutrition. This will set out further accelerated and intensified action. The noble Lord, Lord Collins, invited me to say a little more about what the financial resource behind that might be. Like me, he will have to be patient to see that coming forward, but I hope that it will be something where, as on so many things, there is cross-party support.

Our new approach will be built on the latest evidence. This shows clearly that there is a basic package of things that need to be done to most effectively tackle malnutrition. This includes vitamin A and zinc supplements for children, maternal micronutrient and calcium supplementation, breast-feeding promotion—which the noble Baroness, Lady Manzoor, referred to—education around complementary feeding, and specific management of severe acute malnutrition, the most life-threatening form of malnutrition.

The evidence also points towards focusing on both girls and boys under five years, as this is when malnutrition is most likely, has the biggest impact on children's future potential, and can be most easily prevented. It is also increasingly clear that, for maximum impact, we need to focus more on adolescent girls—a point made by the noble Lord, Lord Collins, and my noble friend Lady Manzoor—both for their own benefit and to prevent malnutrition in future generations.

As my noble friend Lady Manzoor articulated so clearly, we need to ensure that the wider DfID portfolio—be it health, water, agriculture, or economic development programmes—is addressing malnutrition at the same time as hitting other objectives. Our recently published *Economic Development Strategy* commits us to do this very thing, and we are now specifically looking at how we can go further in integrating nutrition into health. This multisectoral approach not only delivers better results; it also represents better value for money. Delivering multiple outcomes through our programmes maximises the impact of every pound spent.

While tackling undernutrition will remain DfID's primary nutrition focus, failing to consider overweight and obesity will leave many countries with a costly public health problem in the future. DfID will therefore also identify ways to avert overweight and obesity through our work on undernutrition in low-income countries, making the most of UK expertise in this area. Preventing undernutrition itself will play a role, as undernourished children are at increased risk of being overweight, of obesity and of related non-communicable diseases in adulthood.

As I have outlined, nutrition is a top priority for DfID's work. However, the UK acting alone cannot of course rid the world of malnutrition. The noble Baroness, Lady Thornton, rightly pointed this out and stressed the importance of working with our European partners. At present, we continue to do that through the European Development Fund. In future, we will continue to work with them through the many multilateral institutions in which we have a shared position, involvement and concern.

Inequalities in malnutrition are also increasing. Girls, excluded ethnic groups, children with disabilities and displaced people—some examples of whom the noble Baroness, Lady Manzoor, referred to in respect of her visit to India—and those living in fragile and conflict-affected states are particularly affected. The new UK position paper will therefore also set out our determination to galvanise the international and business communities to follow our own leadership on nutrition. We will specifically ask countries which are home to large numbers of undernourished people to set out quality, multisectoral plans and financial commitments to tackle undernutrition. We will continue to support the Scaling Up Nutrition movement, by contributing to the costs of the secretariat and by providing assistance to Governments within the movement to improve their nutrition programming.

[LORD BATES]

We will seek new commitments from businesses, which have a crucial role in improving both supply of and demand for nutritious food. The noble Baroness, Lady Thornton, raised a good point about potential conflicts of interest within the food industry. We are supporting the development of guidelines to ensure responsible behaviour by businesses on nutrition, working with Access to Nutrition Index to promote improvement in business practice.

We will lobby other potential global funders of work against malnutrition to step forward and step up, including through the Power of Nutrition financing facility. And we will call on our multilateral partners to up their game, focusing more sharply on supporting Governments to develop and implement their own national nutrition plans.

To advance this agenda, the UK will play a leading role in a series of global nutrition events throughout 2017. Starting with a global call to action at the World Bank spring meetings in April, there will be moments for each group of stakeholders to make new commitments at that point.

Lastly, we will invest to ensure there are better data—a point raised in the debate, and the point about disaggregation of data was particularly well-made—to measure the impact of our own and others' efforts, and to ensure that we and others can be held to account for delivery.

I am grateful to my noble friend Lady Manzoor for raising this timely debate, and for the expertise she brings. I am grateful also for the contributions of the noble Lord, Lord Collins, and the noble Baroness, Lady Thornton, on this crucial issue. We will continue to work with civil society and the private sector, to get the world back on track and make sure we achieve Global Goal 2 by 2030, and leave no one behind.

House adjourned at 7.36 pm.

Grand Committee

Wednesday 22 February 2017

Technical and Further Education Bill

Committee (1st Day)

3.45 pm

Relevant document: 16th Report from the Delegated Powers Committee

The Deputy Chairman of Committees (Baroness Henig) (Lab): If there is a Division in the Chamber while we are sitting, this Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

Clause 1 agreed.

Amendment 1

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

1: After Clause 1, insert the following new Clause—

"Report on quality outcomes of completed apprenticeships

(1) The Institute for Apprenticeships and Technical Education must report on an annual basis to the Secretary of State on quality outcomes of completed apprenticeships.

(2) A report under subsection (1) must include information on—

(a) job outcomes of individuals who have completed an apprenticeship;

(b) average annualised earnings of individuals one year after completing an apprenticeship;

(c) numbers of individuals who have completed an apprenticeship who progress to higher stages of education;

(d) satisfaction rates of individuals who complete an apprenticeship with the quality of that apprenticeship; and

(e) satisfaction rates of employers, who hire individuals who complete an apprenticeship, with the outcome of that apprenticeship.

(3) The Secretary of State must lay a copy of any report under subsection (1) before each House of Parliament."

Lord Watson of Invergowrie (Lab): My Lords, as we embark on three days of Committee on the Technical and Further Education Bill, I must admit that I have been caught slightly unawares by the changed groupings that have been issued, further to those circulated yesterday. So I may have to edit as I go along on some of those to which I shall speak.

Be that as it may, the first group comprises Amendments 1, 4, 5 and 19—though not Amendment 17, as I had thought—and is mainly about the quality of outcomes. That concerns not only the input to but the outcomes of the apprenticeships that are a central part of the Bill. I say "outcomes" because outputs and outcomes are not necessarily the same thing, a point we want to stress with Amendment 1. Despite some progress in recent years, the situation for those young people who remain not in employment, education or training remains of some concern and we cannot be complacent about the job that still needs to be done to deal with many of the 16 to 24 year-olds in what is known as the NEET category.

As my noble friend Lord Hunt and I said at Second Reading, the focus for the Government's target of 3 million apprenticeships must be high standards, not simply a concentration on meeting what was, after all, rather an arbitrary figure. Ministers must now choose either to honour their pledge to increase the quality of apprenticeship training or allow themselves to be consumed by the need to hit those targets. Last year the Public Accounts Committee emphasised the need for the Government to be unrelenting in their focus on the quality of apprenticeships and we believe that this is very much the key. While the temptation may exist to water down apprenticeship standards to hit the 3 million target, such short-termism would ultimately prove counterproductive. Unless there is an increase in quality, people will continue to look down their noses at apprenticeships and technical education when they should be viewed with the same respect as other forms of further education, such as university degrees.

Young people themselves are very keen to ensure that their apprenticeships are marked by quality. In last year's Industry Apprentice Council survey, their main concern was quality because industry apprentices rightly see their apprenticeships as badges of honour—as, it is to be hoped, do their employers. It was satisfying to learn that nearly nine out of 10 level 2 and 3 apprentices were satisfied with their apprenticeships, but with such an increase planned it is essential that the satisfaction rate is maintained.

Given the new routes and standards for technical education and apprenticeship expansion, it is vital to track the outcomes for each group. The last two years' apprenticeship evaluations showed small increases in the proportion that had completed their apprenticeships and were in work, but monitoring those trends is important. Related to that is monitoring progression and pay, which is not just important but very important. Apprentices have talked about a number of positive impacts in the workplace, but that does not always translate into pay or promotion benefits. Some 46% of apprentices received a pay rise after completing their apprenticeship and 50% had been promoted. Both figures represented an increase, and we certainly hope that trend will continue because it is important that young people who have worked hard to complete their apprenticeships are made to feel that it has been worth while. If they do not have that sense, perhaps because they feel that they have to some extent been exploited, demoralisation can set in, and that can dissuade the next cohort.

This issue was highlighted in last month's report by the Low Pay Commission, which revealed that 18% of apprentices were being paid less than their legal entitlement. It is vital that these headlines do not act as a deterrent for non-graduate groups going into professions, and do not deter future young people from taking up apprenticeships. We believe that when the apprenticeship levy comes into force in April, tackling issues concerning exploitation should be a priority for the new Institute for Apprenticeships and Technical Education.

[Lord Watson of Invergowrie]

Preventing such misbehaviour will require a strong regulator with power to punish instances of non-compliance on minimum pay. I repeat: this is a legal entitlement and there should be no exceptions under any circumstances. I accept that the Government very much hold to that view and I am certain that the institute will be told that it is an important part of its operation. Without that, the potential for further long-term harm to the reputation of apprenticeships is considerable. Research undertaken last year by the Association of Chartered Certified Accountants showed that apprenticeships face something of an image problem among many 16 to 18 year-olds. More than half the young people polled thought that apprenticeship routes would lead to their earning less over the course of their careers than if they studied at university. Apprenticeships are still seen as the poor relation when compared to traditional forms of higher education. If the Bill achieves anything by helping to reduce that perception, it will, in that sense alone, have been something of a success.

The duties that we place on the institute by the amendment are not onerous. Surely the Secretary of State would expect nothing less than an annual report from the institute on the quality of outcomes of completed apprenticeships. My question is: why not include that provision in the Bill? It follows, particularly while the Government are in pursuit of the 3 million target, that Parliament should have the opportunity to receive and debate the report. If the Government are serious about quality trumping quantity—I have done it again and I no longer feel comfortable using that word; I should have said "quality triumphing over quantity"—we should ensure maximum transparency in that regard.

Those sentiments dovetail with our Amendment 4 on standards and are a natural fit with new Section ZA11 on page 22 of the Bill, which sets out how the institute should publish standards in relation to the 15 occupations highlighted by my noble friend Lord Sainsbury in his seminal report. It is, of course, important to differentiate between quality and standards—terms that are often wrongly used interchangeably. It will be for the institute to set and maintain standards, while Ofsted and, in respect of maths and English, Ofqual, will have the task of ensuring that quality is widely established and then maintained. It is to be hoped that all the organisations charged with oversight will not overlap too much. I say "too much" because some overlap is preferable to gaps being allowed to develop through which who knows what might fall. To a significant extent, this is a question of resources and it will be the Government's duty to ensure that staffing levels and resources of other kinds are not held at levels that restrict the effectiveness of any of the oversight bodies, particularly the institute.

Some surprise has been expressed by organisations in the sector at what Amendment 5 is intended to achieve. Let me be clear: first and foremost, it is concerned with achieving the best quality of teaching in further education institutions. No one would gainsay that, but before one can claim quality, one must have a means of measuring it. That is not to say that no measurement is currently undertaken, nor have there been suggestions that teaching quality in further education is poor. However, the detail we have is less than is available in higher education and, as noble Lords will know, when the teaching excellence framework is introduced in universities, the level of scrutiny will increase. We believe simply that, warts and all, the use of some sort of metrics would be advantageous, and Amendment 5 is not prescriptive as to what they might be. We simply call on the Secretary of State to bring forward a scheme to be operated by the Quality Assessment Committee of the Office for Students to ensure good-quality teaching in the further education sector. We also advocate a simple pass/fail outcome, with no suggestion of the cumbersome and ultimately unhelpful gold, silver and bronze scheme suggested for higher education. This would assist in achieving consistent levels of quality, with a broader aim of allowing the sector to build a relatively focused group of qualifications that carry the recognisability and acceptance of GCSEs and A-levels. People know what they are getting with those qualifications and the ultimate aim should be for something similar to develop with technical qualifications.

Finally, Amendment 19 would require the institute to publish apprenticeship assessment plans for all standards. Recent analysis of real-time experience shows that number-crunching on the government figures published last October suggested that there are no approved awarding organisations for over 40% of learner starts on the new apprentice standards. That is surely a matter for concern, although moving from a framework to standards involves moving down a road that will not, by any means, always be smooth. But apprentices on the standards will have to face end-point assessments for the first time and those assessments have to be carried out by organisations that have been cleared for the task by government or Skills Funding Agency-registered apprentice assessment organisations. Is the Minister confident that this will happen and that it will happen evenly across the country?

There is a degree of uncertainty about how this will evolve and what role the institute will have in relation to, say, Ofqual. Because of that it is important that we have transparency on who is being cleared and who is doing the clearing. As this process strengthens and multiplies, as it needs to do to meet all the government targets, the Government will have to pay close attention to the issue of capacity; otherwise, they will find themselves in a logjam of standards approvals as early as the middle of next year. That is the point at which any Government of any political persuasion, when they have the Opposition and other stakeholders bearing down on them, might be tempted to cut corners. Clearly, we do not want to see that but, like other stakeholders, we want to see what progress is taking place in real time. That is why we have tabled these amendments. I beg to move.

Baroness Morris of Yardley (Lab): My Lords, I was not going to speak this early but I support these amendments. The desire across all parties in the Committee to achieve high standards in apprenticeships is unquestioned. We know that is what needs to be done. We know that is what we have failed to do in the past. I think the jury is still out on whether or not the Bill will achieve that.

We know from experience that new structures do not always achieve the ends that we want. There is a real danger in politics that because structures are the things we can control, that is where we put our emphasis. It is the one thing we can do. We do not teach, we do not mark, we do not assess; we can give funding and we can build structures. Sometimes there is a danger that we persuade ourselves that as long as in our mind and on paper the structure looks right, all will be well and things will be delivered. The education system is littered with gaps between the intentions of the structures and the reality of what is being delivered to children and young people. If you look at any part of our education and skills system, nowhere is that more the case than in skills and apprenticeships. We do not have a strong basis on which to build. We are not building on a record of high standards.

To be honest, you have to be as old as I am to remember the day when apprenticeships were generally thought of by the public as being high-quality training that did young boys and girls good in terms of the opportunities they had for life. Anyone a bit younger than me has an impression of an apprenticeship as being second best, not wanted—perhaps okay for someone else's child but certainly not for mine.

Throughout the Bill the testing of whether we have done enough to ensure high standards is crucial to what happens in the future. The Government have a real quandary about how to deal with it—whether to go for the 3 million target or for standards. I feel certain that at some point along the line those two really good ambitions—nothing wrong with either of them—will come into conflict with each other. It is important as we go through the Bill that we put in some measures to make sure we are monitoring the standards and outputs of these new structures that we are putting into place.

Amendments 1 and 4 do that. Why would we not want to know what is happening to people who have taken the initial apprenticeship route? Why would we not want to know what employers think of people they might recruit? Why would we not want to know what the students themselves thought of their apprenticeships? I do not doubt for a moment that the Government have plans for how to get that feedback. Indeed, I know that to be the case because they are not silly; of course they will want feedback.

My noble friend on the Front Bench made a crucial comment: this is as much about building trust with the public and the people involved in apprenticeships, both employers and users, as it is about anything else. It is not enough for the Government to collect the statistics and then amend structures or legislation on the back of them. This is not a highly charged Bill politically and there is a great deal of good will across both Houses of Parliament to make sure it succeeds. Our joint endeavour is to build confidence and trust among teachers, parents, employers and learners. Even if the Minister wants to amend it in some way, because we could have lots of arguments about the detail of the information to be collected, this is a reasonable amendment. Its aim and thrust would stand us in good stead in the Bill we are now considering and I support it.

4 pm

Baroness Garden of Frognal (LD): My Lords, I too support these amendments and the words we have just heard about the importance of raising the profile here. Only one thing concerns me about these amendments, which is that the institute will be set up with a remarkably small number of people to sort things out. If it were to undertake these safeguards and produce all these reports as quite reasonably requested in Amendment 1, and on standards in Amendment 4, it will probably need more staff than is currently envisaged. My question for the Minister is: what are the priorities for the institute among the aims and objectives it has been set? It will need to prioritise quite carefully where it concentrates its efforts.

Lord Young of Norwood Green (Lab): My Lords, I support the amendments because their aim is the right one in the circumstances. I thank the Minister for our useful meeting with him. He responded promptly, although he did not cover quite all of the issues we raised, and I will come to that in this contribution.

The concerns that have been raised by my noble friend Lord Watson are legitimate because, as we have said on a number of occasions, both at Second Reading and during meetings with the Minister, aiming for a target of 3 million apprenticeships is very ambitious but there must be complete consensus in the Committee that what we want to achieve is quality as well as quantity. If we fail, I think we will do real damage to the apprenticeship brand. Here I must part company with some others because a lot of good, high-quality apprenticeships are out there. Some people know how to run them, although perhaps not as many as we would like. But when we look at the number of applications for apprenticeships at BT, Rolls-Royce and a range of others, we find that they are inundated with applications. There are those who argue that it is harder to get on to some of these schemes than it is to get into Oxford or Cambridge. However, I do not know whether that is an anecdote or statistically correct.

The real point here is that of preserving the quality of the brand and encouraging trust among would-be apprentices and their parents. We have another problem that we will probably address elsewhere, which is getting schools to recognise that the vocational or technical path is just as valid as the academic one, and indeed that one can lead to the other. I hope the Minister will take these amendments as being constructive and designed to ensure that the Government can reassure us that they will be safeguarding the quality of these apprenticeships.

I have had a quick glance at the letter the Minister sent on 22 January, and unless I missed it because it was a bit of a skim read, I do not think he covered a question we put to him. We were told that two groups would be dealing with these issues. As I understand it, one will be the Skills Funding Agency, which will deal with the money side and ensure that they are getting the bang for their buck, and Ofsted, which will look at the quality of the apprenticeships.

At our meeting with the Minister, we said, "Okay, in theory, but given the expansion rate of these apprenticeships, that's going to put quite a degree of

[Lord Young of Norwood Green]
pressure on Ofsted. Can we be sure that there really are enough resources there, so that they'll have the means of carrying out the inspection, which is a vital part of them?" Those are my concerns in supporting these amendments. I look forward to the Minister's response.

Lord Aberdare (CB): My Lords, I want briefly to add my support for these amendments, particularly Amendment 1. There needs to be a real commitment to assembling the data we need to assess how well apprenticeships are working and whether there are areas that need improving, looking at or changing. I also agree with a number of noble Lords, including the noble Baroness, Lady Morris, that this is a key part of being able to raise the esteem for apprenticeships and vocational education. I add to the issues covered those relating to whether we are meeting the skills needs not just of the UK but of all the employers concerned. Are there sectors that are not doing as well as they should? Are SMEs being suitably addressed by the system and is it working? The amendment is a helpful way of ensuring that we are committed to collecting the data we need to measure, assess and demonstrate that apprenticeships are working.

Baroness Cohen of Pimlico (Lab): I, too, support the amendments and thank the noble Lord, Lord Nash, for his helpful letter. My heart lifted when I saw in it that there would indeed be controls to prevent employers refusing to release apprentices for training. That is jolly good; it will improve the quality of apprenticeships no end right there.

I retain an area of muddle in my head. We are all talking about apprenticeships, and degree-level apprenticeships operate rather differently. I thought degree-level apprenticeships would be designed by the Office for Students. I believe the Bill says that their conditions will be enforced, including the formal condition that people must be released for training, by the SFA—that is fine if I have understood it; there is nothing wrong with the SFA—while the design of all other apprenticeships and the setting out of conditions will be done by the new Institute for Apprenticeships. Do I still have this wrong, or will the new Institute for Apprenticeships design all our apprenticeships, including degree-level apprenticeships? There is a cross in responsibilities between the higher education Bill and the technical education Bill. To be frank, I am still "Slightly Muddled" of the House of Lords here. I would welcome assurance on this point.

Baroness Donaghy (Lab): My Lords, I apologise for not being present at Second Reading. I hope that when the Institute for Apprenticeships is up and running the first apprenticeship it approves will be to teach the acronyms in this complicated area—it might do the whole country a service. As an educational administrator of 33 years, I do not understand the Bill, which I think is because we have a very complex and inadequate system which we are trying to turn into an adequate one. I fully accept the Government's intentions; I am not absolutely clear whether they will be achieved.

I understand from the Minister's briefing that the work to develop the detail of what the new system will look like is yet to be done and that the measures in the Bill are the first step, so I recognise that he will not have all the answers. However, in echoing the concern expressed by the noble Baroness, Lady Cohen, who takes the final decision about judging the quality will be a measure of the success or failure of the scheme. If the 20% off-the-job training works, the compliance issues are reliable and the Skills Funding Agency has the material—

4.10 pm

Sitting suspended for a Division in the House.

4.21 pm

Baroness Donaghy: I will be brief, because some of these issues will come out when we deal with other amendments. In supporting issues of quality, it is first important that we know what the organisational chart will look like. A valiant attempt was made at an organisational chart, but whether I was any wiser at the end of reading it, I am not sure. I am not sure that an individual applicant, their parents or providers would be clear either. It seems to me that there is a separation of important issues of quality, not unlike the break we had just now—we were talking about one subject and have come back to talk about another. I am interested in the 20% off-the-job training. How will compliance with that fit in? To what extent will the integrity of the employer be relied on? How will it fit in with the qualifications that will be subject to either the Institute of Apprenticeships or the successor body to HEFCE? I am just not clear what the organisational chart is.

I do not expect the Minister to give me an answer straight away, but if I cannot see my way through this, acronyms and all—I have a bit of background in this area—I do not think we have necessarily got it right when it comes to the function of the Bill. Who exactly is in charge? Who will enforce compliance? Will it be separated out? If so, that relates to the issue of quality that my noble friends Lady Morris and Lord Young have spoken to very clearly. I am asking for clarity as the Bill goes through Committee, rather than for all the answers now.

Baroness Cohen of Pimlico: I, too, am not asking for all the answers now. I think we have a muddle with providers here. As I think everybody knows, I am chancellor of BPP University, which provides degree-level apprenticeships. We had expected that to be looked after and designed by the Office for Students. Fine—but the Bill says that all apprenticeships will be looked after by the Institute for Apprenticeships. Outside the university, we do skills training and proper apprenticeships, and I think I am clear that that part of our work will be looked after, regulated and designed by the Institute for Apprenticeships. If the Bill said that it applied to all apprenticeships, including degree-level apprenticeships, I would know where I was, but is this what we mean? I thought that bit of the university, of which I have the honour to be chancellor, was to be regulated, along with the rest of the university, by the Office for Students. There will be more and more universities doing this—they are natural providers of degree-level apprenticeships—but I think they will be in as much of a muddle as I am.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, I am grateful to the noble Lords, Lord Watson and Lord Hunt, for these four amendments. I am delighted to discuss matters relating to how we will ensure that the quality of technical education and apprenticeships is improved, as this is as the heart of our reforms. I echo what was said by the noble Baroness, Lady Morris, and the noble Lord, Lord Aberdare, about the importance of improving the reputation and the esteem of apprenticeships and technical qualifications. On the point made by the noble Baroness, Lady Morris, and the noble Lord, Lord Young of Norwood Green, about the target of 3 million, I say, as I believe I did on the Floor of the House, that 3 million is the target but standards and quality must come first. The institute does not have a statutory responsibility to meet the target, but a statutory responsibility to have regard to quality.

Regarding Amendment 1, it is of course critical that reporting measures are in place to enable us to assess how well the programme is achieving quality outcomes. I agree, therefore, with the spirit of this amendment, which proposes that this type of information be monitored, measured and reviewed regularly. However, we do not need the amendment to achieve that aim. This amendment was discussed in Committee and on Report in other place, and the Minister of State for Apprenticeships and Skills gave a sound justification for why such an amendment is unnecessary.

The institute will be required to report on its activities annually under the Enterprise Act 2016 and the report must be placed before Parliament. This will include information on how the institute has responded to the statutory guidance provided to it by the Secretary of State. In addition, the Enterprise Act includes provisions enabling the Secretary of State to request information from the institute on any other topic she deems appropriate. The information set out in the amendment is already collected and published by the Secretary of State on the performance of the FE sector, which includes apprenticeships. To inform its activities, we would expect the institute to make good use of these data in its annual report, when it assesses its performance and impact each year. Indeed, the shadow institute has explained in its draft operational plan that it,

"will make more use of learner, employer and wider economy outcome data when reviewing the success of standards".

The institute's core role is to oversee and quality assure the development of standards and assessment plans for use in delivering apprenticeships and, we expect, from April 2018, college-based technical education. Much of the information that this amendment proposes that the institute should provide goes well beyond what is in scope of its remit. It would not therefore be appropriate for the institute to be asked to provide this type of information; it would be an unnecessary duplication of effort given that this information is already collected and published by the Secretary of State. It is right that Government collect and monitor this information, but where this falls outside the remit of the institute, it cannot reasonably be expected to provide it.

On the point raised by the noble Lord, Lord Young of Norwood Green, about Ofsted's resources, we have had detailed discussions with Ofsted and it is confident that it has enough resources to deliver against the current remit, including apprenticeships up to level 5, based on a risk-based approach. If its role expands, we will obviously discuss the resourcing level again. The noble Baroness, Lady Cohen, asked if she had got it right; I think she basically had but, to be clear, the IFA will approve all apprenticeships and funding for degree apprenticeships comes from the levy, like all others, and is subject to SFA rules. The Office for Students will have a role in regulation of HEIs but not in the approval of standards. If that is not clear, I shall try to set it out in writing so that it is clear to everybody, including myself.

4.30 pm

Lord Young of Norwood Green: I listened carefully to what the Minister said about the role of Ofsted and a risk-based approach. I shall try to define that. If I were Ofsted, I might think, "Do I need to worry too much about a Rolls-Royce apprenticeship, a BT one, or whatever?"—literally, not metaphorically. I could probably say that I would have a look at them but they are not at the top of my list. But if I was looking at an area where the numbers are very high—for instance, carers—that would worry me as there is a high turnover. I do not necessarily expect the Minister to have the answer now but would welcome more clarification on a risk-based approach.

If we look at the last time Ofsted said it was dissatisfied with a range of apprenticeships, to be fair the Minister responded to that and got rid of what were not really apprenticeships anyway. There was the six-month scenario. I would welcome further clarification so that we understand what is meant by the risk-based approach and the statement made by the Minister that Ofsted is confident it can ensure quality throughout the range of apprenticeships.

We welcome what the Minister said about the target, which he said even more explicitly here, but maybe my memory deceives me. It is welcome that the Minister places that emphasis on it.

Lord Nash: I am grateful to the noble Lord. I am meeting Ofsted shortly, either next week or the week after. I will certainly dig deeper into the issue so we can explain more what we mean by a risk-based approach.

The noble Baroness, Lady Donaghy, asked who takes the final decision about judging quality. The institute takes the final decision on whether the standard of assessment plan is high-quality enough, but obviously the market—in terms of whether employers will deliver these apprenticeships and whether the apprenticeships will be taken up—will be another good test of how good they are.

I fully understand the importance of Amendment 4 and agree that there should be appropriate measures to ensure that standards are in place and the quality of further education technical qualifications is maintained. The core role of the Institute for Apprenticeships and Technical Education from April 2017 is to oversee and quality assure the development of standards and assessment plans for use in delivering apprenticeships, as I said, and, from 2018, college-based technical education. The institute will be required to report on its activities annually.

[Lord Nash]

In developing these standards, consultation is a key feature of the institute. It already has a statutory duty to undertake its functions with regard to industry, commerce, finance, the professions and other employers regarding education and training within the institute's remit. It must also ensure that the standards, assessment plans and, from 2018, technical education qualifications represent good value for money and are of appropriate quality. Also, in her strategic guidance, the Secretary of State may set out specific areas for the institute to take into consideration when performing its functions. When carrying out its core functions, the institute will need to consider the wider skills market, and will be expected to make good use of the data on outcomes made available to it through public data sources and surveys, and to explain in its annual report how it has deployed them.

Turning to Amendment 5, I agree that ensuring high-quality training provision is a very important part of our apprenticeship reforms, but I am not convinced that this amendment is desirable or necessary. It would introduce an additional scheme to regulate the quality of teaching in further education institutions. We believe that it is unnecessary to require in legislation for the Office for Students to run a quality assessment scheme in this case. The change proposed in the amendment would be a significant increase in the scope of the office, expanding its remit into, for example, apprenticeships, other than degree apprenticeships, and technical education at level 3. While I appreciate the noble Lord's motivation, Ofsted already fulfils this function. Given the diversity of FE provision and providers and the overlap with schools in terms of provision at 16 to 18, the Government believe that Ofsted should continue to have the lead role in quality oversight for teaching in FE institutions to ensure continuity. I therefore believe that the proposed new scheme is unnecessary and duplicative and would lead to confusion.

Amendment 19 would require the institute to publish an apprenticeship assessment plan for each standard that it approved. As currently drafted, the Bill would allow the institute to decide whether an assessment plan is appropriate for each standard. This is to reflect its proposed future role in relation to technical education. While all standards can be used for both apprenticeships and technical education qualifications, some will be developed specifically for the college-based route and would be inappropriate for an apprenticeship, because of the nature of the occupation and the knowledge, skills and behaviours that need to be acquired. Technical education qualifications are not tested through an apprenticeship end-point assessment and therefore do not need an assessment plan. This amendment would therefore require something that was not necessary.

Lastly, let me deal with the understandable concern of the noble Lord, Lord Watson, about enforcing the low pay rules. HMRC is a strong enforcement body, which can and does take action to enforce the minimum wage for apprenticeships.

I hope that the noble Lord will feel reassured enough on the basis of my explanation not to press these four amendments.

Lord Lucas (Con): My Lords, I am grateful to my noble friend for that answer, but could he enlarge on what he said about how parents can have the confidence to encourage their child to do an apprenticeship? As I understand it, the IFATE is the body that will say whether an apprenticeship has been set up right. I would be grateful for my noble friend's thoughts on how many such apprenticeships it has to cover, how often it will review them and what staff it intends to allocate to that job. I will come back to this frequently, because I am astonished that the IFATE thinks that it can do its work with 80 people.

Secondly, am I right in thinking that the IFATE also looks at the design of delivery—the whole process by which an apprenticeship will be delivered? Over how many instances of that does it think it will have oversight and what resources does it intend to devote to it? What burden of work does the IFATE think it has in this area and with what regularity does it expect to carry out its reviews?

Perhaps my noble friend could also enlarge on what he said about Ofsted. Ofsted is a pretty variable visitor to schools. To some it will come every six months and to others it will come every 16 years. Given that we are in a pretty unmapped part of the world, I hope that the Government are budgeting for fairly frequent Ofsted inspections to enable the reputation of this area to grow quickly. I would be grateful if my noble friend could tell me what Ofsted is planning in terms of the number of visits that it intends to make a year and the average frequency with which it expects to visit providers.

Lord Nash: I will write to my noble friend about that.

Lord Watson of Invergowrie: My Lords, I thank all noble Lords who have contributed to this lively debate. It is important that the Minister in his response began by saying—I wrote it down—that the 3 million target is a target but quality comes first, and that the institute is not responsible for meeting the target but for ensuring quality. Those words will be well received, and to have them in written in *Hansard* will be a comfort to many people. However, that is the aim and it has to be followed through to ensure that apprenticeships achieve what everyone in this room would want them to achieve.

There seem to be three primary aims for apprenticeships, at this time anyway. One is that the aforementioned word "quality" must be everywhere. The second is that they are able to produce young people, and perhaps not-so-young people, equipped to fill the skills gaps in the economy that we know are there. The third aim is that apprenticeships and everything surrounding them should ensure what my noble friend Lady Morris said: that they have public confidence and that parents in particular are not just willing but knowledgeable enough to guide their sons and daughters into apprenticeships with the confidence that they will get something worth while out of them. If that public confidence is not there, the 3 million target will not be met. I therefore hope that those three aims will be met as a result of the institute being reformed.

The Minister mentioned Ofsted. The noble Lord, Lord Lucas, covered some of the points I wanted to make but the Minister said Ofsted tells him that it has sufficient resources. I am tempted to say that it would, would it not? However, with a new head of Ofsted, I should have thought that this was a time to increase resources to take account of increased responsibilities and duties. There will clearly be far more apprenticeships than there have been. If Ofsted has the work deriving from Bill added to its ability to inspect schools—some are inspected rarely—it is hard to see how that can be done without additional resources. The Minister did not mention additional resources and I suspect that is because there may not be any, but it would be helpful if he could clarify the point about Ofsted. It is difficult for us to take on board that Ofsted could suddenly adopt extra responsibilities without additional resources.

The Minister also mentioned the Office for Students, particularly in respect of Amendment 5. He did not believe that it was appropriate for the OfS to have the regulating duty set out in that amendment and that the body's role was regulating higher education. I agree that Ofsted will have the lead role but that does not preclude the OfS. I must ask the Minister for clarification because—with due deference to my noble friend Lady Donaghy—there are five acronyms in the letter he issued today for bodies involved in apprenticeships and technical education. The OfS is not one of them, yet it has some role in the provisions of the Bill. If Ofsted is going to take the lead role, it impacts on the resources argument. We need some clarification of what the OfS is expected to do.

I must also ask about another comment the Minister made in his response. He said that Ofsted had sufficient resources up to level 5. However, the chart at the back end of the letter we received today said that Ofsted inspects the quality of training for level 2 to level 3 apprenticeships. Perhaps that can be clarified because the two comments do not sit easily together.

The points made by my noble friend Lord Young, a former skills Minister, about the importance of safeguarding quality, and the Minister's acceptance of the basis of these amendments, particularly Amendment 1, are important. I thank the noble Lord, Lord Aberdare, for his enthusiastic welcome. It is good to have cross-party support in these situations.

To some extent, the Minister has answered the points that we put to him. Some concerns remain, not least about who will be doing what. He seeks refuge in HMRC being the answer to enforcing the national minimum wage and apprenticeship rates. In my experience, HMRC is unable to enforce the national minimum wage for adults, again because of a lack of resources. I do not think much attention has historically been given to apprenticeships, and clearly much more should be, as recommended in the report from the Low Pay Commission, which I outlined earlier. But you cannot just add additional duties to public bodies without giving them the resources to make sure they can meet those. However, we have covered most of the points in some depth. On that basis, I thank the Minister for his response and beg leave to withdraw the amendment.

Amendment 1 withdrawn.

4.45 pm

Amendment 2

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

2: After Clause 1, insert the following new Clause—

"Careers education: duty to publish strategy

(1) The Secretary of State must publish a strategy for the purposes of improving careers education for persons receiving education or training—

(a) in the course of an approved English apprenticeship;

(b) for the purposes of an approved technical education qualification; or

(c) for the purposes of approved steps towards occupational competence.

(2) The strategy shall be laid before each House of Parliament.

(3) The strategy shall specify provisions under which the Secretary of State will seek to—

(a) ensure that persons receiving education or training under subsection (1) receive information, advice and guidance relating to their future careers, and that such information, advice and guidance is delivered in a way which meets each person's needs and is impartial;

(b) ensure that such information, advice and guidance may be taken into account by relevant authorities and partners to meet the needs of local or combined authority areas;

(c) ensure parity of esteem between technical, further and higher education; and

(d) monitor the outcomes of such information, advice and guidance for recipients.

(4) The provisions specified in subsection (3) shall have specific regard to particular needs of different groups of persons receiving education or training under subsection (1), including—

(a) persons with special educational needs;

(b) care leavers;

(c) persons of different ethnicities;

(d) carers, carers of children, or young carers, as defined by the Care Act 2014; and

(e) persons who have other particular needs that may be determined by the Secretary of State.

(5) The strategy shall include guidance for the purposes of improving careers education, to which the following bodies shall have regard—

(a) the Office for Standards in Education, Children's Services and Skills;

(b) the Institute for Apprenticeships and Technical Education; and

(c) the Office for Students.

(6) The Secretary of State shall by regulations designate relevant authorities and partners for the purposes of subsection (3)(b).

(7) The Secretary of State may by regulations designate—

(a) further groups of persons under subsection (4)(e); and

(b) further national authorities or bodies under subsection (5).

(8) Regulations made under this section—

(a) must be made by statutory instrument; and

(b) may not be made unless a draft has been laid before and approved by a resolution of each House of Parliament."

Lord Hunt of Kings Heath (Lab): My Lords, as this is the start of Committee, I remind the Committee that my wife is a consultant for the Education and Training Foundation.

In our discussion at Second Reading, and in the very helpful meetings we have had with Ministers and officials since, there has been a unanimity of view that people, and young people in particular, should have every opportunity to consider a quality apprenticeship as a serious option. My eyes were opened when I visited the Skills Show at the NEC in Birmingham some three years ago under the auspices of David Cragg, who did so much to develop this concept. It was an amazing experience. The exhibitions by some of our best companies were of high quality, ranging from aeronautics to car motor engineering and from catering to the media. It was fantastic to see the opportunities available to young people, if they choose to go down the apprenticeship route. Thousands of young people and their parents have been to the Skills Show and to similar events in other parts of the country. They have had their vision widened. However, many young people and their parents have not had that opportunity. Therefore, the lack of robust, high-quality and, dare I suggest, impartial advice to young people about the possibility of apprenticeships is a worrying issue that we need to tackle if the Bill, and the actions taken by government, are to be successful.

The noble Lord, Lord Baker, asked at Second Reading: how do you get knowledge of apprenticeships over to young people? He said that you cannot expect schools to do the job and pinpointed a weakness in the current situation. First, schools often have very limited knowledge of apprenticeships, and, secondly, they have a vested interest in keeping their bright young people in school, ready to go into their sixth form. By the way, this is also an issue in relation to young people who might be better off going to a sixth-form or FE college to do A-levels, rather than staying in a small sixth form that offers a limited variety of A-levels. Again, the issue is about the pressure that schools put on young people to stay, even though it is against their best interests.

The Minister accepts the issue. There is no doubt that since the Education Act 2011 and the stripping away of the grant connections, we have seen a huge reduction in the quality of the careers advice available to young people. At Second Reading, the Minister promised a government strategy. In essence, Amendment 2, in my name and that of my noble friend Lord Watson, seeks to flesh out the strategy and ensure that young people receive high-quality and impartial advice.

In dealing with this group, we will hear from the noble Lord, Lord Baker, and his colleagues on Amendment 11, which covers much of the same ground and which clearly, given its drafting, the Government will support. I welcome the noble Lord's amendment, although I think that between now and Report there is room for more discussion. Perhaps in speaking to my amendment I will put a few points to the noble Lord to enable discussion. My reading of his amendment is that it does not apply to institutions in the further education sector. If that is so, there is a not inconsiderable number of 14 to 16 year-olds in FE colleges who would not benefit. That is my first point.

The second is the question of enforcement. As I see it, there is no provision for making sure that this really grips and makes education providers ensure that, in the end, young people receive quality advice. Thirdly, there is still an issue about whether adequate facilities may be made available. I know that the noble Lord's intention is to make education providers set out a policy statement and the terms on which external providers of technical education can gain access, but I have to say—with apologies to all current or past head teachers who are in your Lordships' Committee today—that heads are ingenious at ensuring that if they do not want something to happen in their school, it will not.

4.51 pm

Sitting suspended for a Division in the House.

5.01 pm

Lord Hunt of Kings Heath: My Lords, I was saying—with apologies to the noble Lord, Lord Storey—that heads are ingenious at finding a way round things if they do not want something to happen. I understand the intention of publishing a policy statement about the ability of providers to come into schools, but I am concerned about whether you can really make it happen in practice if heads do not want it to. This is where our amendment comes in and where the Government—in the end—have to take ownership of it. The Minister has already promised a strategy but we need to hear that there is going to be some beef to it.

We also need some recognition on why schools should be reluctant. I am interested in what the noble Lord, Lord Baker, said. If students are leaving at 14 to go to UTCs, clearly we want bright young people to do that where it is appropriate. We do not want schools resisting or offloading the students that they do not want to stay in their own schools. That has been a problem with some UTCs. Equally, you have to accept, if you are a head, that losing young people means a financial loss. The Department for Education needs to think about a sensible approach that will provide some incentive to schools to encourage young people to go to UTCs at that age if they think it is appropriate. It would be a great pity if the UTC approach went under because parents and young people are not getting the right information about what UTCs have to offer. That is but one example of the issues that we face.

Amendment 9 takes its remit from the industrial strategy Green Paper recently published by the Government. Page 43 of *Building Our Industrial Strategy* talks about the creation of a course-finding process for technical education similar to the UCAS process. That is very welcome. I see this as being in parallel to impartial advice and encouragement of young people into the apprenticeship approach. The strategy says:

> "Effective information and support should be available for everyone, regardless of their education and training choices. People choosing apprenticeships or courses in colleges currently face significant complexity when selecting and applying for a course. Applications for higher education institutions, in contrast, are much more straightforward, with a way of searching and applying for courses similar to the UCAS process".

The Government say they will explore how to give technical education students clear information and better support throughout the application process, with a similar platform to UCAS. This is very welcome and my amendment merely provides a useful vehicle for the Government to establish this and I am sure the Minister is going to accept it. I beg to move.

Lord Baker of Dorking (Con): My Amendment 11 is also in the names of the noble Lords, Lord Adonis and Lord Storey, and the noble Baroness, Lady Morris of Yardley. It is very important that when one is proposing a significant change, which is what the amendment does, one should seek to get all-party support for it because that will secure acceptance across the party lines. The purpose of the amendment is to ensure that providers of technical training and apprenticeships will have the right to go into local schools and explain to students at different levels and of different ages exactly what they have to offer. The ages will be 13, 16 and 18.

The key to the success of the Bill is not only providing first-class apprenticeships and technical education routes but ensuring that young people recognise them as worthy career paths. The curse of our education system at the moment is that secondary schools or comprehensives seem to have only one target: three A-levels and university. You go and speak to heads and they will tell you about the students who have got into university and the ones they want to get into university, and for the rest it is middle-distance interest, frankly. There are many pathways to success and it is our duty to try to open them to more people. As the noble Lord, Lord Hunt, said, we cannot expect teachers, many of whom have no experience of industry or commerce, to advise their students. They have simply left school, gone to a teacher training college and gone into education, and they do not realise the enormous range of skills and interests that is needed in the industrial and commercial world.

The amendment will strengthen the Bill significantly by giving all young people the chance to hear directly from providers of apprenticeships and technical qualifications about what they can study. I say to the noble Lord, Lord Hunt, the phrase in the amendment that covers FE colleges is "education … providers", as referred to in subsection (1) of proposed new Section 42B. So FE colleges are included in the amendment. This will help our young people make better-informed and more confident decisions at important transition points.

The age of 14 has become a transition point because university technical colleges have now been promoted for some time. I am one of those who believe that that is a much better transition point than 11. The reason we have 11 is because in Victorian England the school leaving age was 11 and the only schools that went beyond that were grammar schools. After the great 1870 Act the elementary schools started the post-school leaving age and it happened to be 11. That is why we are landed with 11-to-18 and 11-to-16 schools. I personally believe that the two ages of transfer in the education system are round about nine and 13 or 14, which is what the private sector does and what many other countries in the world do.

Of course, having the transition at 14 presents marketing difficulties because youngsters, having gone to an 11-to-16 or 11-to-18 school, do not expect to make another choice until they take GCSEs. Certainly, UTCs have had difficulty recruiting at 14. It gets better each year as the UTC movement expands and gets better and more widely known, but as the noble Lords, Lord Hunt and Lord Watson, said, many schools resist anybody who comes in and tries to persuade a pupil to go on another course. It is a loss of money—about £5,000 a head—and they are very hostile.

We had one classic case when the head of a UTC went to a school to explain to the students what the UTC was about. He was met at the door by a teacher who said, "You can go over there to the 16 year-olds". The head said, "Yes, but what about the 13 and 14 year-olds?". The teacher said, "You can't go to those at all". The head said, "What is your role in this school?", and he said, "I am the careers adviser". You can see an instinctive and permanent hostility to anything that will attract students to a different course—which in many cases may be more appropriate for them.

For the past three years, we have been pressing the Government to help us with recruitment at 14. We asked for two changes to be made, both of which required legislation. The simpler one involved laying a statutory instrument, which was laid and has now come into force. It requires all local authorities in the land to write to all year 9 parents telling them of the existence of choice at 14 and, specifically, that UTCs, studio schools and indeed FE colleges are available for them. We really did not get very far until Justine Greening became the Education Secretary; she is the first in seven years who actually likes UTCs. She visited one in Didcot and described it as brilliant and, when I took her to open another in Scarborough, she said that it was also brilliant. Last week she went to see JCB—also brilliant. So the mood in the department changed, and a statutory instrument was laid.

The other change we wanted is contained in this amendment. Legislative action was needed—there was no general education Bill in this Parliament. When I saw the Long Title of this Bill, I asked the Public Bill Office whether it would be appropriate to table an amendment, and outlined what I wanted. The office said that it would be. An excellent clerk, Susannah Street, not only said yes but presented me with a brilliant amendment—five lines long—which was absolutely perfect and did everything I wanted. Then of course I showed it to the Minister and the department. They liked it and redrafted it to a page and half, which only goes to show that the parliamentary draftsmen in the department today are just as good as they were when I was there more than 30 years ago. The drafting is very clear. Subsection (1) of the proposed new section states that:

"The proprietor of a school in England"—

which covers all schools in England, but not private schools—

"must ensure that there is an opportunity for a range of education and training providers"—

including university technical colleges, studio schools, career colleges, FE colleges and providers of apprenticeships—

[Lord Baker of Dorking]

"to access registered pupils during the relevant phase of their education".

This is really at the heart of the clause.

By this, we wanted to achieve a recognition of the importance of technical and vocational education. As one knows, for the better part of 150 years, it has never had the same sort of rating as academic education in England does. This is a great pity. When we started the UTC movement, we asked a team at Exeter University to explain to us in a report why every attempt to improve technical education since 1870 had failed—and every attempt had failed. At the end of that presentation, we were told that there were two that would be approved by the noble Lord, Lord Adonis, and we had to decide whether to have two experimental schools or a movement. If we had accepted just two experimental schools, I would have thought that, by this time, we would probably have half a dozen UTCs operating. Ron Dearing and I decided no, and that we should start as many as we could as quickly as we could—all with the approval of the department, I must say. We do not just turn them on. There is a very demanding process of selection, as the noble Lord, Lord Nash, will know: we have to persuade him that they are in fact worth funding. We now have some 48 UTCs open, with nearly 12,000 students.

One thing we are most proud of in the UTC movement is the destination of the students. The destination data for students in ordinary secondary schools are farcical—the students are tracked 18 months after they have left, through national insurance numbers and tax records. When the figures are published, no one pays any attention to them, including the heads of the schools, and they disappear into the distance. Our destination data are taken in the four months of July, August, September and October. We trace what happens to each of the students; it is not too difficult for us because, from the very beginning when students join the UTCs, they are thinking about what their destination is going to be. That is a very thorough and proper analysis.

Last July we had 1,292 leavers and of those only five were NEET. Literally no other group of schools in the country can match that. Our unemployment rate at the age of 18 is 0.5%, while the student unemployment rate in this country is 11.5%—something that is often forgotten. When it comes to the destination of our students, 44% go to university, which is higher than the English national average of 38%, and we also produce 30% of apprentices at 18 years old where the national average is 8.6%. That is a remarkable record of achievement for UTCs.

5.15 pm

As the noble Lord, Lord Hunt, hinted at, sometimes we have to take difficult students, and I am very proud of the fact that we have remarkable examples of turnarounds where a student's life opportunities have been fundamentally changed. One has to recognise that the famous key stage 3 for 13 and 14 year-olds is a very troubled stage indeed. You have a large number of disengaged and uninterested students, and that is not getting better; it is always there. We provide an opportunity for them, and we also provide a great opportunity for talented students. The standard of education in UTCs on the technical side is very high. When Justine Greening opened the new UTC in Scarborough, as we walked around we saw that there was a cybersecurity suite sponsored by GCHQ. That is because GCHQ does some work up there and, as it cannot easily recruit the students it wants from the local schools, has quite openly funded a suite. We saw a group of sixth-formers working on advanced computing projects. I can assure noble Lords that there is no other cybersecurity suite in any other school in the country.

Last September a UTC opened close to London City Airport. I went to see the sixth-formers, all of whom were taking advanced computing at A-level, along with maths. I was absolutely staggered by that, but what really amazed me was that they were all wearing virtual reality headsets. At this moment, no other schools in the country are teaching using virtual reality. So I am quite convinced that we are meeting a huge need, and the recruitment help we are going to get will be beneficial to us. The letters have begun to go out from local authorities and will continue to do so for the next three or four weeks. I am sure that that will boost recruitment for this year.

On the implementation of this clause, it is important that noble Lords should note that the Government will be publishing statutory guidance to which schools must have regard. This is a strong incentive and schools will have to follow what the Government have decreed. That guidance will be published when the Bill has gone through its final stages. The Government will work with Ofsted to monitor compliance with the duty. However, the measure also includes a regulation-making power so that in the event of a large number of schools failing to comply, the Secretary of State may make further provision. For example, she might specify in law who should be given access to pupils and when. This change will be fully supported by the department, and I think that it will be highly beneficial to our education system. It will improve the life chances of thousands more of our young people.

Lord Storey (LD): My Lords, I shall speak generally to this group of amendments and specifically to Amendments 11 and 61. It is important that students' eyes are wide open and they know exactly what their options are. I could not put it any better than a DfE spokeswoman who, when commenting on Ofsted's report on careers education, said:

"Every child deserves an excellent education and schools have a statutory duty to provide high-quality careers advice as part of that".

That is perhaps the most important thing that parents and society want for children and young people. When they go to school, we want excellent teaching and opportunities, but we also want excellent careers education. The noble Lord, Lord Hunt, referred to Connexions. Connexions was good but some of it was pretty ropey. I do not think there has ever been a time when we have had really outstanding, first-rate, quality careers education. I think I have said this before but, interestingly, if you talk to professionals they say that the best careers regime was at the time of John Major's premiership.

The noble Lord, Lord Hunt, also asked how we can ensure that careers education is of a high quality. It is no good just providing a scheme, a strategy, books and prospectuses, or visitors to schools. How do we ensure that quality careers education is embedded in schools and colleges? The answer is in Amendment 61. The only way we can ensure quality is through Ofsted. It is strange that we do not get Ofsted to say, "Yes, this school or college has quality careers education". Amendment 61 says that for a school to be good or outstanding it has to have good careers education. I was asked why I tabled this amendment in relation to colleges. We are not talking about careers education in schools, but I hope that if we get significant changes to the quality of careers education in colleges, it will permeate through to schools.

In a sense, the noble Lord, Lord Baker, should not have had to table his amendment. It is bizarre that schools do not invite different providers in, but he gave the answer. First, society has a view that we should go down an academic route. In my children's school, they said, "Yes, they will do very well in their GCSEs. They will do very well in the sixth form. Yes, they'll get a university place". My cousin lives in Switzerland, with two children, where there is a wholly different approach: what is better for the child? The school of one of her children said, "Actually, it is a vocational route". He went into an apprenticeship and has gone back to university.

We have this tramline approach in this country that there is only one route to go down. We need to break free of that, which is why the amendment is so important. It is also about changing parents' perceptions. For some reason, parents think that unless their child has gone to a good secondary school, sixth form and university, somehow they have failed education. Is that not sad? We need to make real changes.

We should not have to table an amendment saying that, but of course for head teachers, each child, pupil or young person is a sum of money. Again, we heard from the noble Lord, Lord Baker, that if a maintained school or an academy loses pupils to other providers, whether FE colleges, UTCs or studio schools, it will lose that money. That then blinkers schools' approach to what is best for the child. Sometimes they will look at the viability of sixth-form groups and say, for example, "Susan would be better going to a UTC or an FE college, but she is quite good at history and the group is struggling a bit at A-level and if we don't get the right numbers, we'll lose that group". So the school pushes pupils down that route. That is the wrong way. Slightly pushing the door open and getting other providers in to make parents aware of what is available and making pupils and young people themselves aware is hugely important.

I mentioned the Ofsted report of last year into careers education, which was pretty concerning. It referred to, for example, chaotic careers education hampering the economy and the lack of an overarching government strategy. I will not go through it all. The DfE responded, and we know that the Careers & Enterprise Company has been established. I hear good reports about that. The Minister will no doubt tell us how the huge £20 million investment is turning things around. However, it is not turning things around for every school or indeed college. I hope that we will not fail our children but will realise that we need good-quality careers education, which is inspected. We also need other opportunities, providers and routes—whether they be academic, vocational or technical—to be part of a young person's choice in their future education and career.

Lord Aberdare: My Lords, as a vice-chair of the All-Party Parliamentary Group for Apprenticeships, I meet a lot of apprentices and am constantly surprised and shocked at how few have either heard about or been directed towards the apprenticeships that they are on through their schools or any formal careers education. As we have heard, schools have an in-built bias towards promoting the academic route and I do not need to say any more about that.

However, with the best will in the world, teachers and parents may have only a limited understanding of the sorts of jobs and careers available in today's job market, the opportunities they offer and the routes available to access them. Again, as we have heard, the careers education system, if one can call it that, has been at best patchy and at worst shockingly poor. Some good initiatives are beginning to emerge. The National Careers Service offers a valuable central online resource; the Gatsby benchmarks have defined what good careers education looks like, which is important; and, as the noble Lord, Lord Storey, has said, the Careers & Enterprise Company in particular is creating a vital network of enterprise advisers and co-ordinators to support schools.

However, all those initiatives need to be properly linked, and the gaps that even they allow in provision need to be identified, measurement systems need to be put in place and we need a strategy driven by government. Indeed, I am delighted that the Government are committed to producing a strategy later this year. However, there is real value in including a provision for that in the Bill. Part of that strategy, as we have heard, should be a much better, UCAS-like system for identifying and applying for technical education and apprenticeship opportunities. I am delighted that that is promised in the industrial strategy but support the idea of it being incorporated in the Bill through Amendment 9.

I also support the amendment of the noble Lord, Lord Baker. The careers system provides a bit of supply push but unless there is some demand pull, and unless schools want or are required to allow those systems to work, and young people and their parents are aware of them, the system is not going to work.

Finally, I was delighted that the noble Lord, Lord Hunt, reminded me of my visit to the Skills Show some years ago because that was one of the most inspiring ways in which to promote apprenticeships and technical education that I have come across. There was a real buzz about it; there should be skills shows all over the place. There needs to be an incentive to ensure that schools do what we need them to do. I therefore support Amendment 61 to ensure that only colleges with good careers education can get good or outstanding Ofsted ratings.

Baroness Wolf of Dulwich (CB): My Lords, I can only second what has been said this afternoon. I was interested to hear from the noble Lord, Lord Baker,

[Baroness Wolf of Dulwich]
that he started off with a five-line amendment that seemed to encapsulate what this issue is about. Will the Government reconsider whether they need to put all of Amendment 11 into primary legislation?

I will give the Committee an example of why I read the whole thing with mounting grief, after thinking that the five lines were splendid. I am the governor of a small specialist sixth-form academy. We have a small group of young people who have already chosen a specialist route, in this case mathematics. I am very proud of the fact that our first class included one young lady who went off to be a Dyson apprentice at 18 with her extremely good A-levels, and your Lordships will not be surprised to hear that we have been visited by people from the Dyson Institute of Technology who are very keen that we should send them some more apprentices.

5.30 pm

We already have 67 policies on our website; I guess we will now have 68. Do we really need regularly to update, and therefore be inspected constantly on, the exact details of the premises and facilities to be provided to a person who is given access to talk to our young people? I suggest that this level of detail is not necessary and it diverts very scarce time and resources from the heart of the matter, which is providing information and careers advice oriented to the particular young person.

It is really important that we bear in mind that our schools are hugely stretched and that at 16 to 19, and indeed at other ages, they are clearly underresourced. This is something that officials and Ministers will agree is not going to change in a hurry. Therefore, before we pass anything like this into law, we really need to think about what needs to be made very clear and where we want schools and colleges to place their attention, and not create artificial barriers to following through on the intent of making sure that every young person gets the advice they need, by diverting more attention and resource into meeting formal requirements, which, because they are in primary legislation, we will not get rid of for at least a decade, if ever.

Baroness Morris of Yardley: My Lords, I support the amendments in this group, particularly Amendment 11, to which I have added my name. I have some concerns about Amendment 61 in the name of the noble Lord, Lord Storey, which I will mention. I do not want to go over the arguments again except to add weight of numbers to the strength of the arguments we have heard from other Members today. I do not disagree with anything that has been said, I just want to make two or three points which perhaps have not been made or have not been made frequently enough. I hope I will not speak for long.

First, I hope the Minister will be really clear about when this careers strategy is about to appear. We have been promised it for a very long time and I think I saw something by his colleague who leads in the department for this piece of legislation about it coming later in the year. Given that it is about two years since a careers strategy was promised, I am not sure why a Bill such as this, which will fail unless there is good-quality careers education, is coming so far in advance of the careers education strategy. They should go hand in hand. We would not be having this debate if we had the careers education strategy. I think a lot of these amendments have been tabled in sheer frustration. We almost panic because we know it is such a weak area of our system and we are about to pass the Bill with no effective careers education system. We need to know when the strategy will arrive and we need to understand why it has been delayed. If there is a problem, we need to know about it. I worry about that.

Secondly, I agree with the information bit but that in itself is not careers education. There are two parts to this. We need the information but then we need to make the decision. As a young person—or even an older person—just having information is not sufficient. The skill of making the right decision is far more complicated. You can let as many people into the school to give information about as wide a range of jobs as you can, but when they leave at the end of the day, it is the teacher who is there with the young person when the decision is made. That is a very important other part of this situation. Information by itself will not necessarily change the young person's mind—it might but it might not.

There are three big influences on the child in making the decision: their parents, their friends and their teachers. The strategy must encompass and reflect that. We cannot squeeze teachers out of careers education. We can bring people with a wide range of knowledge and experience into the classroom, but teachers will have an important impact on the decisions reached because they are the pastoral carers and they spend an awful lot of time with young people. We have been critical of teachers, and rightly so, but we need a careers strategy that supports them in the job they are being asked to do. We do not want to give them the impression that we want them out of this business. They have an important role to play in supporting young people to make the right, effective and appropriate decision.

Thirdly, we are moaning about schools—I do not disagree with a word my noble friend said; he made this point brilliantly—but the incentives the Government have put into the system are causing the problems. What do we do? We moan at the teachers. We are complaining about the schools responding in an entirely predictable and understandable way to the incentives that we have put into the system—including me in my time. The answer to that is to change the incentives, but we want to leave the incentives in place and change the behaviour. That will not work. Where is the discussion about changing the incentives because that is the surest way of changing behaviour? I agree absolutely with the noble Lord, Lord Baker, that the UTCs are a force for good. They had a difficult birth and baptism but they are still a major player in the field. In a way, they encapsulate the problems of the incentives in the system. Their very existence is threatened because we have the wrong incentives, and I say that collectively of politics and Parliament. The case he has made about having access to young people is strong, but other things need to be done as well.

My only concern about Amendment 61 is that it is too easy to say, "Leave it to Ofsted. It cannot be a good school unless it has good careers education

provision". We always say that, and then every 10 years we have to prune what we ask Ofsted to inspect. We pile so much on to Ofsted. With every new initiative that is introduced we say, "Let's get Ofsted to inspect it". That is how the relationship between schools and Ofsted breaks down; the inspectors are always seen as the bearer of the big stick. I want to turn the amendment the other way around. We are saying that if a school does not have good careers education, it will go into "requires improvement" or "special measures" because those are the only two categories left. There are implications in that for a college that we ought to be aware of if Ofsted is to be used as the lever in this. It is a bit mean, or premature, to put a college into the "requires improvement" or "special measures" category because it has not got right a plank of policy that we have not got right either. It behoves us to get our bit right before we say to any educational provider, "If you don't get this right"—despite the fact that we have not—"you will go into 'requires improvement' or 'special measures' and the consequences will be big".

I say to the Minister that we would not be having this conversation if we had more information about the Government's plans for the careers strategy. It is a big and dangerous hole at the moment and therefore I strongly support the amendments, with the caveat about Amendment 61.

Lord Lucas: My Lords, the incentive I would like to see is schools being allowed to take credit for the performance of the children they let go into technical education. If a child might get only Ds in history and English but they are good for an A* in BTEC business, and the school can get credit for that, the school's interests will align with the child. It would also be a good thing for the performance tables. We have superb data because it is easy enough to collect them, but why should a school be penalised for a kid who arrives in the year before GCSEs, having had a dreadful education beforehand? That is not fair; nor is it fair that a school which has really looked after a child and brought them on to the point where they have the get up and go to attend a UTC then gets no credit for it. If a school feels that the best interests of the child will align with the way it is going to appear in the tables, there is a real hope for making progress in this area. We should be doing this anyway to ensure equity between schools, so I hope that this is a direction we might consider going in.

I like the amendment about a technical version of UCAS, which is immensely helpful to schools. Everything is in one place and it would all look and feel the same. You know how it works and what is required and it becomes easy to provide support and advice for the children using it.

Apprenticeships are a great challenge. Companies have a horrible habit of not admitting they have apprenticeship places until about two weeks before they want people to apply. They suddenly appear, enough people apply, and they disappear again. This is not the way in which a school can work or how young people should be asked to work. We have to discipline companies to make it clear in good time that they are open to apprenticeships so that people who are interested can see what is on offer year round and put their names down. I know that it will never be a regular cycle such as UCAS, but we need to discipline the system so that it works in the interests of children, and something like UCAS would help. A UCAS system would also provide a place to find all the information. If someone is looking for an apprenticeship they might not cotton on to who the education provider is, who to go to, which Ofsted report applies, where to look to find the outcomes, and other data that will tell them whether a particular apprenticeship is worth while. Something like UCAS would draw all that together. I would not actually use UCAS. It is a horrible institution that believes in making as much money as possible from the students passing through its system and it is run in the interests of universities rather than kids. But as a concept it is great, and we really ought to see whether we can do something along those lines.

It is high time that Amendment 11 was brought in. We all know how badly schools can behave. The noble Baroness, Lady Morris of Yardley, says that it is a matter of incentives as well. Let us have a structure which provides the stick and the carrot—this is the stick. Let us have a system where schools know that they are expected to do things. I presume that access means physical access. It cannot just be, "Well, we'll pass your emails on". Clearly the access will be moderated by the school and the teacher will sit down with the kid afterwards and tell them where they need to be really careful about such and such. However, at least it is progress in the right direction.

I hope that we might look at expanding subsection (3). There are some really important intermediary organisations which perform a function in this area. To name just one—Women in Construction. It performs a specialist job and looks after a particular subset of pupils, and it is doing that in a co-ordinated way, which makes it much better than your average local FE college, let alone a building company that happens to have some apprentices. Giving access to some of these collaborative organisations is a very useful supplement to the direct education and apprenticeship providers.

Turning to the carrot element again, there are other ways of doing this, and that is what my Amendment 34A seeks to achieve. It would allow money to flow to schools and organisations and would open up in a positive way the pipeline between what is going on in the creation of technical opportunity and the kids in schools.

There is a lot beyond what appears in Amendment 11 and schools are doing much that is positive. They invite people in to talk, and make arrangements for internships and work experience placements for their children. A lot of organisations are helping, but it is an immense burden on a school at a time when we are facing something like an 8% cash reduction for schools over the next three years. It is a hell of a thing to ask a school to add to its functions without in any way adding to its budget.

5.45 pm

For employers faced with paying the apprenticeship levy who would like to recruit some apprentices but cannot, it seems worth finding some way of giving them the power to ask, "Can we use some of this

[LORD LUCAS]
money to open up the pipeline into schools and improve the interface between business and technical education?". I am not trying to push the Government into doing that now, but I would like to see them have the power to do so. I would also like to see them have the power to support organisations such as Women in Construction in their efforts to get through to schools if this is what is needed to open up the pathway into schools for particular areas of industry. This is an entirely positive thing for schools. They would not be looking at immediately losing their students, although it may have that effect. This is about supporting students, improving their education and giving them resources at a time of great shortage to connect with all that is possible. As I say, the amendment is not trying to compel the Government to do anything, but I would love them to have the power to do it.

Baroness Whitaker (Lab): I apologise that I was not able to be at the Second Reading of the Bill and I declare an interest as a fellow of the Working Men's College, whose chair I used to be. I support all these amendments but I shall speak briefly to Amendments 9 and 11. Careers advice has not exactly been the jewel in the crown of maintained education, as I think the noble Lord, Lord Aberdare, said. It is imperative that our young people have comprehensive advice on routes to the later stages of education. That will give them the capacity to fulfil themselves as well as help them to build up the technical expertise our economy needs. We have never been in more need. I think that the Government approve of choice, so I hope that the Minister will accept the amendment.

Lord Knight of Weymouth (Lab): My Lords, I also apologise that I was not able to speak at Second Reading and I remind the Committee of my interests in respect of my employment at TES, which is probably where I was when the Second Reading debate took place. As others have said, careers education has been a failure under successive Governments, including the one of which I was a part. It is a hard area to resource well and it is hard for professionals in this area to keep up with the real world. From the contacts I have had with careers education professionals, they feel that the situation is getting worse, but that is for people generally to judge. I certainly mourn the loss of the education business partnerships that were part of keeping schools in touch with employers in their localities.

I join with those who are looking forward to a careers strategy from the Government, as set out in Amendment 2, but I am not sure about Amendment 9 and the need for a platform. I remind the Committee that UCAS itself has apprenticeship routes on it. You can search for apprenticeships on the UCAS website. I also remind the Committee that there are other providers. There is a company called Unifrog, which has been set up by a young man who is a Teach First ambassador. It takes the API feed from UCAS, provides a range of advice around apprenticeships, higher education and various learning providers, and as far as I can see it does that very well. I have some scepticism about requiring the Government to set up websites when others are providing them perfectly well and are probably better able to keep up with how technology is being used on the ground by young people.

I am very pleased to see that Amendment 11 would apply to all schools, including academies. I see that the noble Lord, Lord Adonis, has added his name to it. I remember a similar amendment to the Education and Skills Act 2008 requiring the provision of impartial careers advice, but that applied only to local maintained schools because my then fellow Minister, the noble Lord, Lord Adonis, did not want it to apply to academies. However, there were not very many of those at the time. I also remember that in the following year the Apprenticeships, Skills, Children and Learning Act came in which required all post-16 institutions to give specific advice on apprenticeships.

To an extent, we have been here before. That is why the comments of my noble friend Lady Morris are so important on the incentives, and indeed the disincentives, in the system around giving impartial careers advice. So much is loaded on the intellectual, academic route and, in the end, that is what our schools system is designed for. It was designed in a bygone age to route people towards intellectual destinations in the knowledge that there would be a lot of wastage along the way but that those people would be picked up by the labour market employing them in factories or by marriage to someone who worked in a factory. However, we do not live in that labour market any more.

The substantive point I want to make to the Committee is this: how are we going to keep up with the rapid changes in the skills environment that are going on in the labour market? How do we ensure that these apprenticeship qualifications continue to have currency with the level of technological and demographic change that is altering things so dramatically? How do we ensure that careers advisers know the reality of what is changing? Demographic change means that a child starting school last September has a more than 50% chance of living to be over 100. The only way it is affordable for them to live to such a ripe old age is for them to carry on working into their 80s. They will have a 60-year working life and will, therefore, change career on many occasions. We need a skills infrastructure that allows them to be credited for the skills they acquire in work, to take short, intensive breaks from work to acquire new skills, and to take longer sabbatical periods to reacquaint themselves, if they have been there before, with higher education. How we design that is a big challenge, as is how we give young people through their educational journey, particularly their statutory one, a fundamental love of learning and the skills to learn so that they can retrain as technology deskills them. That way, they will have the resilience and reflective ability to understand that need.

Yesterday, I was discussing an Oxford University study, being done jointly with NESTA, on the skills needed for 2030. It is a bit of a mug's game trying to predict what those might be, but a good projection is that the particularly vulnerable skills are in transport, customer services and sales, administration, and skilled construction and agricultural trades. These are among the themes that are picked up in the letter we were so pleased to receive from the Minister yesterday and in the 15 routes set out in the Sainsbury review. But some

of those will go. For example, we have seen huge investment into driverless vehicles, particularly in Silicon Valley, and know the number of people who will be affected if that investment achieves a return—we can be pretty sure that it will over the next 20, 30 or 40 years. We have also seen the first humanless retail outlets being opened by Amazon. We can start to see some of these changes taking place, and I question how we are going to keep the advice, qualifications and structure sufficiently agile to keep up with the rapidity with which these changes may come and the new sectors that will emerge. We should not be wholly pessimistic about what will happen to the labour market, but advanced cognitive skills will undoubtedly be in increasing demand as artificial intelligence and robots take over some occupational categories.

How often does the Minister see the occupational categories set out in Schedule 1 being reviewed? How often are we likely to review the agility of the qualifications themselves? Qualifications generally are losing credibility with many employers because it takes too long to design them and get them approved. In particular, the suggestion set out in the letter—of procurement on a single licence for each one—means that whoever wins the qualification has to get a return on investment for delivering it. That might lock them into a period that removes the very agility that I am talking about. Finally, and most importantly, how will the new institute work with employers to ensure that that agility is informed by the best possible predictions about future skills needs five and 10 years hence?

Baroness Cohen of Pimlico: My Lords, I support the amendments in general. I declare an interest as a director of Parkside Federation Academies Multi-Academy Trust and as a governor of the UTC Cambridge UK. We have had all the difficulties recruiting for the UTC that the noble Lord, Lord Baker, has so eloquently adverted. No school has wanted to let us come in and take their kids.

5.56 pm

Sitting suspended for a Division in the House.

6.05 pm

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): My Lords, before we continue, I have a special request. Because the loop is not working, could noble Lords speak up when they are contributing? Thank you.

Baroness Cohen of Pimlico: My Lords, I had got as far as noting that the university technical college in Cambridge had encountered major difficulties with recruitment. The jury is still out on this, but the technical college has joined the Parkside multi-academy trust, and we believe that because the multi-academy trust has financial responsibility for all four secondary schools in our charge, it is probably going to be a little easier to envisage recruiting children from one of our schools over into the academy trust, if they would be better suited there. But it seems to me a possible route to help the UTCs, because the money does not go away from the multi-academy trust—it stays in. We hope this will be a little better.

On careers advice generally, I support the amendments. However, I have been wondering, particularly in view of the provisions that make the Institute for Apprenticeships responsible for producing careers advice, whether one ought to take it away from schools. It is very difficult for a school to keep up with its expertise, but then I was horribly reminded by my noble friend Lady Morris that individual teachers at a school are very influential in what their students choose to go on and do. So I wonder whether we could group schools' careers advice. We could probably do that inside a multi-academy trust, and I will take home from this debate the suggestion that we try. For example, the University of Cambridge provides a perfectly effective careers service, with professional, HR-trained people, who will never have met the people whose careers they are advising on but seem to be doing it perfectly satisfactorily. Providing experts in careers, rather than forcing teachers to become experts, might have legs as an idea. Indeed, I know there are parents paying for professional careers advice because it works better than what they are being offered by the school. I do not want to propose it as a formal amendment, but I would be interested to know the Government's thinking on that.

Lord Young of Norwood Green: My Lords, I will endeavour to be brief, because we have had a very extensive debate on this. I particularly support Amendment 11, because that is probably the most practical way forward. On careers advice, I incline to the point that my noble friend Lady Morris made. Whatever you do, you cannot take away the role of teachers, who are a very powerful and continuing day-to-day influence. However, as my noble friend pointed out, the problem is that the incentives are to direct their young people towards the sixth forms, which we encouraged or allowed many of them to set up. The point about the financial incentive is a difficult one, but nevertheless will not go away.

As for where people get information about apprenticeships, I cannot help but remind my noble friend Lord Knight that we set up the Apprenticeship Vacancy Matching Service, which I think is referred to in the letter, and that is still there as part of the National Apprenticeships Service. It is true that not all employers register their apprenticeships there, but there are certainly significant numbers on there and we should not ignore that.

What I really want to address is what happens when I go into secondary schools and speak to the sixth form: when I ask the students where they are going I get the inevitable response that mostly they are going to uni. Then when you ask them what the alternative career paths are, if you are lucky you will get one or two answers. They might mention apprenticeships. Apart from all the compulsory stuff that is outlined in Amendment 11, which I am not opposed to, it seems important that every school ought to have links with business, as has been said, such as the collaborative links that the noble Lord, Lord Lucas, referred to, which are good.

If you want to really enthuse and inspire young people about apprenticeships, the best thing you can do is send successful apprentices back into the schools.

[Lord Young of Norwood Green]
There is no better influence than sending young people back in to say, "Look, I'm doing it. I'm not going to get a £50,000 debt. I'm likely to get to a job at the end of it". Young people are not stupid. They soon begin to think about the attractions of earn while you learn, with a definite job destination as well. I do not know how we will encourage that but we certainly should. If we are talking seriously about trying to improve the brand image of apprenticeships—the esteem in which they are held by both pupils and parents—this surely has to be a part of that process.

Again, it is interesting when you go into secondary schools and look at what they are proud of—on the walls you always see the number of people who have gone on to university, especially Oxford and Cambridge. I have yet to go to a school which has another board saying, "These people were our successful apprentices. They had degree-level apprenticeships. These people graduated in apprenticeships". Some companies are now beginning to realise the importance of having a graduation ceremony on the completion of apprenticeships. That is another important way of improving the brand.

I will address the point made by my noble friend Lord Knight about the 15 routes and whether they will survive. The good thing about them is that they are generic. Look at transport and logistics: the nature of transport might change but it will still be there in one form or another. I am not too worried about that. However, how they actually work out in defining future skill needs will be a real challenge for the Institute for Apprenticeships. We have some very powerful indicators of what the needs are. If we look at the demographics of the engineering industry or the construction industry, we see that there are huge numbers of vacancies. The biggest age groups there are those in their 50s and 60s. We know there is significant demand there, as well as in information technology. Taken at its broadest description, there is significant demand there. I hope that when the Minister replies he will address some of these points.

My noble friend Lord Knight was right to remind us that if you look at the career path of young people who are starting their careers, they will require lifelong learning and probably will change their careers a number of times. Who knows, we might even get to the point of introducing significant sabbaticals for everybody, so that they can take career breaks. We still have a very fixed attitude towards employment. I welcome the amendments and I look forward to the Minister's response.

6.15 pm

Lord Nash: My Lords, I am grateful to the noble Lords, Lord Watson of Invergowrie and Lord Hunt of Kings Heath, for the first of four amendments relating to the important matter of careers education and guidance.

We are committed to transforming the nature of careers guidance to underpin our reforms to technical education and apprenticeships. This will give everyone the necessary skills and training to open up opportunities and jobs for their future. We set out in the industrial strategy Green Paper that we will publish a comprehensive careers strategy for all ages. The Minister, Robert Halfon, set out the key principles of our approach in a speech last month. The strategy will look carefully at the role of careers provision in supporting people from primary school right through to retirement. It will look at how we can ensure widespread and high-quality support, and how that leads to jobs and security. The strategy will focus on giving people the information they need to access education and training through their working lives. This will include steps to raise the prestige of technical education and make it easier for people to apply for opportunities.

Our careers strategy will be at the heart of the Government's focus on social justice. We want to nurture the aspirations of those who are disadvantaged and ensure that everyone, regardless of background, has the opportunity to succeed in life. I do not accept the suggestion of the noble Lord, Lord Hunt, that stripping advice away from Connexions resulted in a decline in careers education. I have spoken to many young people who engaged with Connexions and I have to say that I found few fans. As the noble Lords, Lord Storey and Lord Knight, and the noble Baroness, Lady Whitaker, acknowledged, there is no previous golden age of careers education. It has always been pretty poor. What is clear is that the more engagement with the world of work that students in school have, the more engaged they become in their studies, and the more they realise why they are at school. McKinsey carried out a good study across Europe, which concluded that one-to-one careers advice was generally of little value and that the best experience was project-based working with employers.

That is why we have made such a significant investment in this area, including £70 million or so in the Careers & Enterprise Company and nearly £80 million in the National Careers Service. The work of both organisations provides an excellent base on which to build. The National Careers Service's website receives over 24 million visits a year and supports more than 650,000 people in community locations with face-to-face advisers. The Careers & Enterprise Company, ably run by Claudia Harris, has made a great start. As my noble friend Lord Aberdare said, it has made good progress in rolling out its enterprise adviser network. Some 1,500 schools and colleges now have an enterprise adviser, helping them connect with local employers to provide experience of the workplace for young people. The company is also scaling up the number of business mentors—a subject close to the heart of the noble Baroness, Lady Morris—who work with young people at risk of underachieving or dropping out of education. Our goal is for 25,000 young people a year to benefit from this by 2020.

We will carefully evaluate the effect that our work has on careers provision. As of January, we are including destination data in national performance tables. They will help ensure that schools and colleges place an even greater importance on helping their students transition successfully to positive destinations. We fully acknowledge the importance of strong partnership working. As we develop the Government's careers

strategy, we will work with a diverse group of stakeholders, such as the Institute for Apprenticeships.

I welcome the obvious commitment to high-quality careers provision that noble Lords have shown in proposing this new clause. The Government share that commitment. However, it is our view that because we have set out the principles of our approach to careers and have confirmed that we will publish a strategy later this year, the proposed new clause is not necessary.

The noble Baroness, Lady Morris, said that people moaned about teachers—I am not quite sure in what context. Certainly, this Government are not moaning about them in the context of careers. Teachers are busy people and it is important that they identify the passions, interests and aptitudes of their pupils, but they cannot be expected to keep up with the rapidly changing world of work and make those important links to businesses that are so necessary. The noble Lord, Lord Young of Norwood Green, said how important they were. It is important that we link schools to the world of work. That is what the Careers & Enterprise Company and its advisers are all about. I personally believe that all schools should have one person focused purely on engaging with careers, the world of work and all those wonderful, free resources available to schools, if they would only engage with them, from many charities and employers. We do this in my academy group and I recommend it. The payback in terms of pupil engagement is massive and we should engage with this model in more detail. The noble Lord, Lord Knight, asked how we might revise the various pathways and qualifications. Obviously in this rapidly changing world we need to revise them on a regular basis.

I am grateful to the noble Lords, Lord Watson and Lord Hunt, for tabling Amendment 9 and I am pleased that they share the Government's enthusiasm for a new system that would give prospective technical education students clear information and better support throughout the application process. We consider this new system to be key to ensuring that technical education is more on a par with academic education. Therefore, it is important to get it right. While I appreciate the keenness of noble Lords to have detailed proposals for the new system as soon as possible, it is important that we take the time to explore all the options. This will allow us to ensure that the new system meets the needs of the students who use it. We are considering the scope and implications of the new system, including working with a number of key stakeholders to discuss the potential options. It is crucial that the new system can support our ambition to increase the number of people pursuing quality technical education options. This is too important to rush. We intend fully to deliver on proposals for the system as set out in the industrial strategy Green Paper published just last month, but it would not aid the development of this complex project to commit to particular timescales at this stage. For these reasons, I hope that the noble Lord will feel reassured enough to not move the amendment.

I thank my noble friend Lord Baker for tabling Amendment 11 and pay tribute to him for his work in developing the UTC programme, which is now offering young people a technical education at 48 UTCs across the country. I particularly enjoyed his unbiased commercial for them. The amendment would require schools to give education and training providers the opportunity to talk directly to pupils about the approved technical education qualifications and apprenticeships that they offer. I agree that it would strengthen the Bill by promoting technical education and apprenticeship opportunities more effectively so that young people can make more informed and confident choices at important transition points.

As a number of noble Lords have said, the range of information on education and training options that young people receive is too narrow. Ofsted's 2013 careers survey, referred to by the noble Lord, Lord Storey, found that college-based technical education, training and apprenticeships were rarely promoted effectively. We need to address this if young people are to benefit from the Government's ambitious skills reforms which are supported by this Bill. We want institutions to co-operate in the best interests of young people. A school that chooses not to invite a local UTC or an FE college to speak to young people denies them information about opportunities which might be better suited to their long-term career goals, and does them no favours at all.

We need to tackle the myth that apprenticeships and technical options are not suited to high-achieving pupils. A study by the Sutton Trust in 2014 found that 65% of teachers would not advise a pupil with the grades for university to pursue an apprenticeship. I agree with noble Lords that it is time to end this outdated approach. We must get away from a two-tier system of careers advice where the information that young people get from their schools fails to correct or even reinforces the impression that college-based technical education and apprenticeships are second best to academic study. Schools will be required by law to collaborate with UTCs, studio schools, further education colleges and other training providers. This will ensure that young people hear more consistently about alternatives to academic routes and are aware of all the routes to higher skills and into the workplace. This is vital if we are to set our technical education on a par with the best in the world. I thank my noble friend for this thoughtful amendment and I accept it.

Amendment 61 was spoken to by the noble Lord, Lord Storey. I begin by saying that I appreciate the intent behind this proposed new clause. Our careers strategy will not be effective unless schools and colleges are held to account for the quality of their careers provision. Ofsted has an important role to play in this regard. However, I do not believe that the amendment is necessary because the current inspection grading structure provides appropriate coverage of careers provision. Ofsted has already sharpened its approach to the inspection of careers provision. As part of standard Ofsted college inspections, inspectors make graded judgments on: effectiveness of leadership and management; quality of teaching, learning and assessment; personal development, behaviour and welfare; and pupil outcomes. Matters relating to careers provision feature in all four of these judgments.

It is important that, in reaching judgments, inspectors are able to balance their considerations on a range of

[LORD NASH]
aspects to form an overall view, rather than this being determined by one specific aspect of a college's provision. Furthermore, Ofsted evaluates provision offered by the college, including 16-to-19 study programmes, apprenticeships and traineeships. Judgments about all the types of provision within the inspection framework are informed by consideration of the quality of careers provision, work experience and the development of employability skills.

Destination data are now a more significant part of college accountability. For the first time last month, destination data featured as a headline measure in 16-18 performance tables. This encourages a sharper focus on how well colleges prepare their students to make a successful transition. I hope I have provided sufficient reassurance that colleges are held to account properly for the quality of their careers provision. I urge the noble Lord to not move his amendment.

Turning to the amendment from the noble Lord, Lord Lucas, I thank him for his interest in this important matter. I agree that it is essential that the careers information, advice and guidance provided covers the full range of options available so that young people can make important choices about their future pathways. Schools and colleges must secure independent careers guidance. In doing so, they should provide access to a range of activities such as employer talks or hearing from young apprenticeship ambassadors. However, it would not be appropriate for the Government to distort the independence of careers advice and guidance by finding recruiters who promoted a single pathway over others.

The Secretary of State already has very broad powers to fund education and training. Funding for schools is provided by the EFA, and it can implement any policies that require adjustments to government funding for schools. In addition, we do not think the amendment is necessary from a legal perspective. The Secretary of State can fund matters connected to apprenticeships under Section 101A, which was inserted into the Deregulation Act 2015, and we are able to fund matters connected to technical education under Section 101B, which is provided for in the Bill. In view of what I have said, I hope the noble Lord will not move his amendment.

Lastly, I shall comment on remarks made by the noble Baroness, Lady Wolf, about the extension of the succinct five-line amendment produced by my noble friend Lord Baker. I would be happy to set up a teach-in with the draftsmen in the department as to precisely why this is necessary, but I am assured that it is. With regard to her general comment about the number of policies that she seems to be burdened with, I would be delighted to hear from her—I am sorry to see that she is not in her place—about how we might reduce these. I always welcome suggestions for reducing bureaucracy. To take a leaf out of my noble friend Lord Baker's book, when I finish this job I think I shall try to jump on the next piece of education legislation and try to bring in a law that precis should be taught in schools again at every possible opportunity. In view of what I have said, I hope noble Lords will feel able to respectively withdraw or not move their amendments.

Lord Hunt of Kings Heath: My Lords, I thank the Minister for that comprehensive response. I am very pleased that he has accepted the amendment of the noble Lord, Lord Baker. Like my noble friend Lady Morris of Yardley, I pay tribute to the noble Lord, Lord Baker, and the UTC movement; I agree that UTCs are a force for good. It may have been an advert, but I thought the destination analysis that the noble Lord referred to—the fact that so much information is available—was good, and on the face of it the statistics in relation to apprenticeship and university places are impressive. All I would say to the Government is that I hope they hold their nerve in supporting UTCs in the future.

We are all agreed that we want to see quality advice given to young people and their parents. The careers strategy is going to be very important, and the Minister has set out some of the things that are going to be in it. I thought the comments of the noble Baroness, Lady Wolf, were important, because often schools are burdened by many regulations and requirements. I guess in the end it will be made clear to schools in the statute guidance issued by the Minister—succinctly, I hope—what is required, without having to go into enormous detail about how that is going to be done. I recognise that that is difficult, but we come back to the point made by the noble Lord, Lord Lucas, and my noble friend Lady Morris: we have to recognise that in the end we will want schools to wish to do it. Statutory intervention is necessary because that is not happening at the moment, but in the end we somehow have to get to a stage where schools want to do the right thing.

I agree with my noble friend that teachers are not going to be experts in careers advice—the Minister is absolutely right about that—but they can be very influential in setting the terms in which young people will listen to that careers advice. Perhaps we are mistaken: it is the teachers who should go to the Skills Show. Part of this has to be an educational programme with teachers about the opportunities for apprenticeships, alongside the links with business and employment that the noble Lord has talked about.

6.30 pm

Finally, I thought the Minister's response to the challenge set by my noble friend certainly met the precis test by being very succinct, but this is a major issue. We all realise that the world of work is going to change dramatically and it seems to be happening very quickly indeed. Yet when you look at arrangements for what is going to happen in vocational qualifications, with the translation of the 3,500 at the moment to the 15 pathways that the noble Lord, Lord Sainsbury, set out, the first routes are going to be available for delivery only in September 2019.

The Minister sent us a very helpful letter today. He then set out the responsibilities of the different agencies. We will come back to this: it is very clunky and it is very difficult to see, in the end, who is the person to whom the Minister turns to sort it all out. My concern

is about this, but also a response to my noble friend Lord Knight's speech: if we have this great clunky apparatus trying to deal with a legacy of failure over many years, how on earth will we be able to respond quickly to the kinds of challenges we face? Fortunately, my noble friend Lord Knight will table an amendment, I hope, on Report which will help us set that out. In the meantime, I beg leave to withdraw the amendment.

Lord Baker of Dorking: Before the amendment is withdrawn, I thank everybody who spoke in this debate for the support they have given my amendment. I also thank the Minister because we have been dealing with UTCs together for nearly four years and he has seen the successes and also the problems we have. This clause helps very much with our big problems of recruitment. I thank the clerk who did the five-liner. Her name is Susannah Street and she is a star.

I assure the noble Baroness, Lady Wolf, who is not here, that every word of the clause is needed because the clause is going to be met with great hostility in every school in the country. They are going to be required, by September, to produce a policy for implementing a right for people to come and tell them about other competitive sources of learning and training. It will require all the resources of the department and the powers of the Secretary of State to ensure that this happens, so that in September and October of this year we should have providers going into all the schools. It is not an easy pathway but it has the full support of the Government and I welcome that very much.

Amendment 2 withdrawn.

Amendment 3

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

3: After Clause 1, insert the following new Clause—

"Institutional autonomy and academic freedom

(1) The Secretary of State, in issuing guidance and directions, and the Institute for Apprenticeships and Technical Education, in performing its functions, have a duty to uphold the principle of institutional autonomy for English further education institutions.

(2) In this section "institutional autonomy" means—

(a) the autonomy of English further education institutions—

(i) to determine which courses to teach, the contents of particular courses and the manner in which they are taught, supervised and assessed,

(ii) to determine the criteria for the selection, appointment, promotion, remuneration, and dismissal of academic staff; and to apply those criteria in particular cases,

(iii) to determine the criteria for the admission of students and to apply those criteria in particular cases, and

(iv) to constitute and to govern themselves in a manner which they deem appropriate for their purposes, subject to legal requirements relating to the corporate form and purposes that they may adopt; and

(b) the freedom of academic staff within the law—

(i) to question and test received wisdom, and

(ii) to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing jobs or any privileges they may have at an institution.

(3) All persons or bodies exercising powers under this Act are under a duty to protect the principle of academic freedom in accordance with subsection (2)(b)."

Lord Watson of Invergowrie: My Lords, I hope that this group of amendments will take rather less time than the previous group.

Lord Baker of Dorking: Have we passed Amendment 11?

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): We will pass Amendment 11 when we come to it.

Lord Baker of Dorking: Yes, of course. I am anticipating—sorry. I will have to wait.

Lord Watson of Invergowrie: The noble Lord, Lord Baker is, of course, a novice at these procedures; or perhaps, like me, he is still getting his breath back following the words "I accept" from the Minister, which were much welcomed.

This is a probing amendment and, to some extent, a read-across from the Higher Education and Research Bill. It is pretty much self-explanatory, although that does not mean I can resist the temptation to say a few words. Almost three decades have passed since the Education Reform Act 1988 ended the tenure that had long been enjoyed by British academics, but an amendment to that legislation protected in law the freedom of academics to question and test received wisdom and to put forward new ideas and controversial and occasionally unpopular opinions without placing themselves in jeopardy of losing their jobs or the privileges they may have had at their institution. That right that should apply across the board to all academics, whether in higher or further education. I accept that this is an issue of more concern in higher education, but increasing staff insecurity in further education colleges and other further education providers leads us to believe that the principles that apply in higher education should also apply in further education.

The Minister may well say that academic freedom is already established by common practice, but that is not the view of teaching organisations. This amendment applies to the Secretary of State in issuing guidance and directions, and to the institution in performing its functions, giving them a duty to uphold the principles of academic freedom and institutional autonomy. It is not a draconian measure; it merely states unequivocally that institutions have the right to determine which courses to teach and who they appoint to teach them, and that academic staff have the right to speak freely about how their institution is run, what courses should be pursued and how, and to advance unconventional or perhaps unpopular opinions. Such expressions should not impact on the job security of academic staff, and for that reason we believe they have the right to have such protections clearly set out in the Bill.

Amendment 3 would also incorporate the human rights to freedom of expression, assembly, thought and belief. It is unfortunate that this amendment is necessary but, given the threats felt by universities as a result of the dramatic changes being introduced to the sector by the Higher Education and Research Bill, who is to say that providers in the further education sector will not sooner or later experience a similar feeling of threat? Forewarned is forearmed, which is why this issue must at least be highlighted today.

[Lord Watson of Invergowrie]

Freedom of speech is the subject of Amendment 7. It, too, is a provision that ought not to be necessary, but the hard facts are that it is necessary. Recent events, particularly in some educational institutions involving Jewish students or staff, demonstrate that for some people freedom of speech can and does become unlawful speech. My view on this goes back to my days as a student activist, some four decades ago, and is that a demand to no-platform a particular speaker is wrong. I have never believed that you deny someone a platform simply because you disagree with them. Even if you disagree vehemently with what they are saying, my response is that you should take them on by argument, but when that kind of speech enters the world of racism, misogyny, homophobia or threatening behaviour, it contravenes the law, and the law should intervene.

It is unfortunate that these matters have to be aired, but I believe they should be. They are matters of concern in the further education sector as well as the higher education sector. I hope the Minister will take them on board and given them due consideration. I beg to move.

Baroness Garden of Frognal: My Lords, I support these amendments. We had extensive discussions on these issues during the passage of the Higher Education and Research Bill, and they are no less relevant to further education colleges. Institutional autonomy is as important for colleges, where the people who work in them really know what works for their pupils and students, and academic staff having the freedom to question and test received wisdom is just as important for colleges as it is for universities. So is freedom of speech and preventing unlawful speech, which seems an increasing aspect of student life these days. In a way, it is almost more relevant for colleges as they have such a wide variety of students under their roofs. Both these amendments are entirely relevant to this Bill.

Lord Storey: I feel quite strongly about this at both levels. Looking back 10 or 20 years, we would never have thought that we would be debating the need for academic freedom and freedom of speech in 2017. If something is against the law of the land, that person should not be allowed to propagate it in any way, but the notion that students no-platform particular speakers is totally wrong. We should say loudly and clearly that it must not happen. I just want to add my voice to these two very important amendments.

Baroness Vere of Norbiton (Con): My Lords, turning first to Amendment 3, I think we can all agree that academic freedom and institutional autonomy are important considerations. I am sympathetic to the spirit behind the noble Lord's amendment. The principle of institutional autonomy and academic freedom is already well entrenched in the Bill and in the existing legislation covering further education corporations. In practical terms, the principle is also very much reflected in how the Government support and work with the sector on a wide range of issues and activities.

Further education college corporations are charitable, statutory bodies under the Further and Higher Education Act 1992. Under the Act, colleges are conducted by statutory corporations, which enjoy many freedoms and powers. For example, Ministers have no powers to issue directions in respect of the administration or management of the college, whether regarding employment matters or the content of courses, except in the very restricted circumstances in which the college is failing. As charities, colleges and their governing boards must also be independent from government. The changes introduced through the Education Act 2011 strengthened this independence, for example by removing the power of Ministers to make changes to the instrument of government and articles of a corporation, which was contained in the original 1992 legislation.

The Secretary of State's powers are therefore extremely limited. As the principal regulator of college corporations, the Secretary of State has a duty to promote compliance with charity law. In clear cases of failure, the intervention powers under the 1992 Act allow the Secretary of State to remove or appoint members of, or issue directions to, the governing body of the institution. But those are powers of last resort, where it is not possible to address failure through other means and there remains a very strong public interest in doing so. In practice, they have never been used. Indeed, outside legislation, the way in which the Government work with the further education sector more generally demonstrates full respect for the principle of autonomy.

For example, the programme of local area reviews which will draw to a close soon is based on the principle that the governing bodies of colleges are the decision-makers when considering the future organisation of provision in their local areas. The Government have established the reviews to facilitate that decision-making, working in partnership with the sector, but have not sought to impose decisions. Similarly, although professional development activities for teaching staff are supported through government funding they are delivered through a sector-owned body, the Education and Training Foundation, reflecting the independent status of colleges and other providers. The legislative framework and the day-to-day relationship with the sector already reflect these principles and there is no need to legislate further. I urge the noble Lord to withdraw his amendment.

I move on to the second amendment in this group, Amendment 7. I thank noble Lords for raising the important issues of freedom of speech and unlawful speech in our further education system. I agree entirely that free speech within the law is a key principle of further education in the UK. We want students to be exposed in the course of their studies to a wide range of ideas and opinions, and to learn the skills to debate and challenge them effectively. There is an existing duty placed on further education providers to take reasonably practicable steps to secure freedom of speech within the law. That duty was introduced in the Education (No.2) Act 1986; it is taken seriously by FE providers and they have raised no issues or concerns with us in relation to its practice.

The requirement in this amendment would place an additional freedom of speech duty on providers so that they must "ensure" that staff, students and invited speakers are able to practise free speech on the premises of the providers, or in forums and events. I am sympathetic to the intention behind this amendment—championing

free speech must be central to our further education sector—but it is not clear what such an additional requirement would mean in practice, nor how we would expect providers to change their policies and practices to meet the new standard. I fear the new threshold in this amendment unreasonably and unnecessarily imposes an additional and disproportionate burden on providers, in particular the duty to "ensure" freedom of speech without any caveats. To move away from a standard of taking reasonably practicable measures may well require FE providers to address matters that are simply outside their control. We should be wary of creating cases where a duty to ensure free speech could come into conflict with other, important considerations, such as the security of attendees at a particular event.

6.45 pm

Further education colleges are places where individuals must feel able to express and debate their opinions, but this freedom is not unconstrained. There is no place whatever for hate speech, discrimination, intimidation or harassment against anyone. Equally, there is no room for anyone who is trying to incite violence or support terrorism. This is why there is a wide range of existing legislation on unlawful speech, with which FE staff, students and visiting speakers must comply. This includes: legislation which makes certain forms of behaviour and hate speech a criminal offence; laws against encouraging terrorism and inviting support for a proscribed terrorist organisation; and the Prevent duty, which requires providers to consider the impact of external speakers. All these laws are supported by effective mechanisms for reporting hate speech, whether through a provider's own procedures, the police or organisations such as the Community Security Trust or the excellent charity, Tell MAMA. Unlawful speech can undermine the safety and welfare of staff and students and erode the ethos and cohesion of the further education provider. It is absolutely right that we highlight the importance of ensuring that it cannot and should not take place.

However, the sector has not told us that preventing unlawful speech is a problem. Introducing a new standard would risk unnecessary confusion, and could create caution and risk-aversion which would stifle free speech. Further education providers will continue to be subject to the existing freedom of speech duty. On unlawful speech, we can best protect staff and students by working with them to implement existing legislation rather than by introducing additional legislation. I hope the noble Lord will therefore feel able to withdraw this amendment.

Lord Watson of Invergowrie: I thank all noble Lords who spoke on this group and I welcome the noble Baroness to her first stint on the Front Bench in Grand Committee. I thank her for a thoughtful and detailed response. There are one or two points that I want to come back on. First, I accept what she said on Amendment 3; she gave a considerable amount of detail on the legislation that covers what we were seeking to achieve, and I and others will want to look at that. On that basis, she may well have dealt effectively with the issues of institutional autonomy and so on.

However, I am not so convinced by the noble Baroness's arguments in respect of Amendment 7 on free speech, particularly when she said that introducing the provisions of this new clause could in fact stifle free speech. I find that rather a strange concept to get my head round. I noted down certain comments: she mentioned that it would require further education colleges to change policies and practices and that they have not identified problems. I would value a letter from her explaining some of her comments, such as why that would be what she termed a "disproportionate burden"—how so? She also said that it would involve colleges addressing matters that could be outwith their control, including attendees at a particular event. Any event on the premises of a college becomes its responsibility, even if the college has not organised it. If it has allowed the property to be used then it is ultimately responsible for what happens there at a meeting. I do not see how colleges can escape that and I do not see that it would be a disproportionate burden. In any case, colleges have to do basically what the amendment says—that is, ensure that,

"students, staff and invited speakers are able to practise freedom of speech within the law".

I would therefore value some explanation of the noble Baroness's reasoning in saying that she finds Amendment 7 unacceptable. If it is not a problem, that does not necessarily mean that nothing needs to be done. I think that this amendment would strengthen the ability of further education colleges and providers, if appropriate, to ensure that their premises were safe havens—places where people could express themselves freely and be able to engage in debate, at all times within the law. If the noble Baroness could provide a bit of additional information on that in a letter, it would be much appreciated. However, for the moment, I beg leave to withdraw.

Amendment 3 withdrawn.

Amendments 4 and 5 not moved.

Amendment 6

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

6: After Clause 1, insert the following new Clause—

"New further education institutions

The Institute for Apprenticeships and Technical Education must not recommend to the Secretary of State the authorisation of a new further education institution unless—

(a) the provider has been established for a minimum of four years with satisfactory validation arrangements in place;

(b) the Quality Assessment Committee is assured that the provider is able to maintain the required standard expected for the granting of approved qualifications for the duration of the authorisation; and

(c) the Institute for Apprenticeships and Technical Education is assured that the provider operates in the public interest and in the interest of students."

Lord Watson of Invergowrie: I should say at the start that I am not quite sure why Amendments 6 and 8 have been grouped but, as they say, we are where we are.

[Lord Watson of Invergowrie]

Noble Lords may feel it a little odd that, in a Bill very largely concerned with assisting further education colleges that have slipped into insolvency, we find an amendment seeking to address new further education institutions. I am being upbeat here: it is to be hoped that the time will arrive when the Government of the day fund the further education sector adequately and the post-16 skills plan and the 15 occupational routes for apprentices are successful, so that the sector will be seen as attractive to new entrants. That is the situation in higher education and safeguards have had to be built in in anticipation of an influx of more new entrants. It may well be the case that a so-called challenger institution will seek to establish itself in the further education sector and, when that happens, the sector needs to be prepared.

It is no more than reasonable that, before the institute recommends to the Secretary of State that a new further education institution be admitted, that institution should be able to demonstrate that satisfactory validation arrangements have been in place for a minimum of four years. Noble Lords may be aware that the Higher Education and Research Bill suggests that new entrants should be able to be given, albeit temporarily, degree-awarding powers from day one. We strongly believe that that is not appropriate and that there has to be an amount of time in which an institution has shown its ability not just to operate as a business but to provide students with everything that they are entitled to expect when they sign up for courses. That is what is behind the mention of a minimum of four years in the amendment.

The Minister may say that this is unnecessary, but he said at Second Reading that he did not envisage the insolvency procedures being used other than in very rare cases. With 28 out of 45 clauses in the Bill concerned with insolvency, methinks he may have protested too much. None the less, reasonable man that I am, I am prepared to give him the benefit of the doubt and accept that these clauses may well prove necessary from time to time and that we need them. In return, I hope he will be willing to accept that Amendment 6 envisages a situation that may prove equally necessary in the future, and I await his response on that point with interest.

Amendments 13 and 14 are concerned with broadening access to post-school education or training, and Amendment 14 is specifically about equality of opportunity. The Learning and Work Institute gave evidence to the Public Bill Committee in another place in which it said that people with disabilities and learning difficulties and people from black and minority ethnic backgrounds had been under-represented in apprenticeships for many years. The introduction of the institute offers an opportunity to make a real difference by improving access to apprenticeships for traditionally under-represented groups.

The Government already have targets to increase the proportion of BME apprentices by 20%. Perhaps the Minister can say whether the intention is to do the same—not necessarily in terms of the percentage but in setting targets—for people with disabilities and those leaving care. Giving the institute a duty to widen access and participation would be beneficial for all parties. Only 50% of disabled people have a job, compared with eight in 10 able-bodied people. The Government have stated their aim of halving the level of unemployment among people with disabilities, so we believe that this offers an opportunity to use apprenticeships as a step towards narrowing that gap.

When it is fully established, we believe that the institute should consider as a priority what can be done for groups which are under-represented, not only women, those from black and minority ethnic backgrounds or those leaving care but also those who leave school with no qualifications at all. During consideration of this Bill in another place, the Minister for Schools, Mr Robert Halfon, talked about traineeships and the possibility of them forming an introductory route into apprenticeships. Traineeships would be particularly appropriate for the groups of people I have mentioned when it comes to promoting equality of opportunity for access and participation. Traineeships are also appropriate for retraining, particularly as the institute has now been given additional responsibility for technical education. I hope that the Minister will follow that up with his colleagues to consider what might be achieved. I beg to move.

Baroness Garden of Frognal: My Lords, I wish to speak to Amendment 8 in this group, which covers some of the same ground that we have already addressed. It seems appropriate, in setting up this new institute, to specify what it is supposed to do—its functions and duties. I have rather optimistically put its "additional" functions and duties because, looking through the Bill, it is difficult to see any clarity on what its functions and duties actually are. However, the role it will play in apprenticeship standards is obviously set out clearly in the Bill. I have added certification, although I think there is a later amendment on this aspect, which perhaps we should address at that point because I do not think it is as straightforward as it appears. It is particularly important that the institute should have an overview of where the skills shortages are and be in a position to divert funding and encourage participation to address those shortages.

The second part of the amendment deals with promotion and consultation. As we have discussed on previous amendments, having set up the new institute, surely it is only right that it should have a role in promoting apprenticeships and work-based skills. It would be a pretty poor body if it did not support the qualifications it has been set up to oversee, and we have such a long way to go. We have already discussed careers education, advice and guidance quite comprehensively, but we have heard from school leavers many accounts of the difficulties they face if they want to pursue the apprenticeship route rather than the university one.

There are steps that the Government could take, as we have already heard from the noble Lords, Lord Hunt and Lord Young, and the noble Baroness, Lady Morris. One would be to expand the measurements for school league tables to include vocational and practical achievement alongside academic results. Currently, schools get public recognition purely on their academic results, so obviously there is a lot of pressure on them to make sure that youngsters are diverted on to those

routes regardless of where their aptitudes lie. They could also encourage schools to celebrate their students who leave to take up apprenticeships with the same enthusiasm they give to their university entrants. One can see on school noticeboards long lists showing how many students have gone on to university, and it would be cheering to read alongside them that a certain number went on to take up apprenticeships. However, schools do not seem to take that on board as something to celebrate. Instead, they keep trying to dissuade bright young people from seeking out apprenticeships, as we discussed when we were considering careers advice.

There was too little consultation with stakeholders before the Bill was drafted. It is difficult to believe that, in a rare further education Bill, they would have chosen that a major part of it—more than 30 clauses—should be devoted to the insolvency and financial difficulties of further education bodies. What a negative view of the sector when there are so many positive aspects of further education that could have been assisted through legislation. Even before the Bill has become law, this is having an impact. We are already hearing that, because of these provisions, banks and other financial organisations are treating colleges with some suspicion. The biggest area of current concern for colleges is the impact on local government pension scheme funds. What was the rationale in casting doubt on colleges, which will be one of the main providers of the qualifications the Government have said they wish to promote? With so many doubts being cast on the viability of the providers, how will that help to generate the 3 million apprenticeships being sought? There appear to be only sticks and no carrots from the Government.

The current situation requires very expensive financial consultants filling in enormous spreadsheets and application forms to the transaction unit—time and resources that could be spent more constructively. It may be better to have an orderly college insolvency regime that colleges hardly ever use than continuing the risk of a disorderly one, but why make it such a large part of the Bill? Which of the stakeholders supported this part of the Bill?

7 pm

We are concerned that the reforms contained in the Bill never went through a formal Green Paper process. The Government published the *Post-16 Skills Plan* alongside the Sainsbury review, accepting all its recommendations in full. From that perspective, the recommendations in the Sainsbury review were never put out to wider stakeholder consultation to inform the White Paper. Furthermore, the Bill that was announced in the Queen's Speech of 2016—the education for all Bill—which was supposed to contain the key technical education reforms, was subsequently abandoned. The reforms contained in the current Bill were published in October with no prior warning.

This is important because a key reform in the Bill, such as transfer of copyright, was not previously referenced in either the Sainsbury review or the skills plan. We would hope that there is full consultation with the sector as part of the implementation phase that is running concurrent to the Bill and which will continue through to the institute assuming full responsibility for technical education in April 2018. The organisations listed for consultation are all ones with varied expertise. Employers, colleges, lecturers and awarding bodies all play a key role, but so too do livery companies, some of the original purveyors of apprenticeships. They continue today to frame and support apprentices in their particular fields, and collectively work, through the Livery Companies Skills Council, as powerful and very experienced champions. Could the Minister say what discussions have been held with the livery companies to make use of their long-standing experience of apprentices? Given the emphasis on students in the Higher Education and Research Bill, it seems only right that further education student voices should be heard on matters that relate to their learning and qualifications. The institute should surely be aiming to speak for them too.

We are not starting from scratch. The country has a long and miserable history of downrating practical achievement, and we welcome anything the Bill can do to reverse this and give vocational skills the credit they richly deserve. The Government need to consult and take account of experienced stakeholders who have so much to offer and could advise on making the Bill a success.

Lord Baker of Dorking: My Lords, I find these amendments very interesting because they pose the question of what sort of beast we are creating in the Institute for Apprenticeships. The points made by the noble Baroness, Lady Garden, exactly address that. In the Institute for Apprenticeships we have created a body with clear functions. It has to sort out shoddy apprenticeships and try to bring some sense to the maze of technical qualifications. They are very important jobs, but they are essentially administrative, functional jobs. Surely the Institute for Apprenticeships will not be spending government money in the future; it will be spending money provided by industry and commerce. Therefore, the Government should really take a back seat from then on. They should be concentrating on what they are responsible for—the skills gap. They have to devise policies that close the skills gap. The improved apprenticeship system will do a great deal towards that, but it cannot do it alone. Closing the skills gap also needs major reforms in further education colleges to improve their effectiveness. If they had been as good as they think they are, we would not have as big a skills gap as we do at the moment.

The Government's other responsibility is to try to ensure how our education system can improve technical education, which in fact it is destroying in schools at the moment. Those are policy matters and the main policy of the Government in this regard is what they can do to close the skills gap.

Where does that leave the Institute for Apprenticeships? It leaves it as a much more independent body. It is not spending government money. The question that the Government should be asking the Institute for Apprenticeships is: what contribution are you making to closing the skills gap? They should not therefore interfere with the institute apart from that, in my opinion. The eight directors appointed so far are quite

[Lord Baker of Dorking]
a feisty lot of independent people. The institute should become the main policy area for apprenticeships and should do the sort of things indicated in the Liberal amendment.

This is a very different body, I suspect, from the one the Government think they are setting up. They still want to keep their sticky fingers on the Institute for Apprenticeships even though they are not providing the money. The money is being provided by industry and commerce—by business. The steering wheel should be taken away from them, and the Institute for Apprenticeships should become an important body, reviewing each year whether the whole apprenticeship system is right. It should decide whether apprenticeships should start at 14, not the Government—which I happen to support. It should decide about approving new providers, the terms for which are set out in Clause 6, and I am sure it would do it in a very professional way.

This is quite an interesting group of amendments, and I look forward to the Minister's reply. This is an area that should slip away from immediate government control because the Government are not putting up the money.

Lord Lucas: My Lords, I support what my noble friend has said. The Government are creating a very powerful body. It will own the intellectual property in all the technical qualifications for the routes described in the Bill. There will be no other institution with any long-term interest in evolving or maintaining those qualifications or in developing a name and a reputation that parents and others can rely on. Below the Institute for Apprenticeships and Technical Education, we have a series of short-term contracts. City & Guilds—I sit on its council, which everyone knows is nothing, but at least indicates affection—will disappear at this level. There will be no City & Guilds qualifications; they will become qualifications of the institute for apprenticeships. City & Guilds, being a charity, may bid for a seven-year contract to be an awarding organisation or to look after one or two of the routes, but it will not be awarding City & Guilds qualifications, rather it will just provide a function for the institute.

We are creating something much closer to the German model. We are losing what remains of the lodestars that the British Computer Society, City & Guilds and others have been providing in terms of the name and quality of their qualifications and replacing them with a new structure. This structure needs to be more powerful and conscious of its role than it is described as being in the Bill. I would like to see the Government follow the logic of what they have produced in the Bill and create a creature which is capable of the long-term responsibilities being placed upon it. It may be that the Government need to acquire City & Guilds, which is after all a quasi-government organisation anyway. Perhaps they need to take it on board to provide the strength, history, continuity and the people needed to run the sort of thing that is being set up in the Bill, or at least to provide the engine for it. I do not see how dispensing with all that the good awarding bodies have created and providing a structure which does not have the power to do what is necessary is a safe way of proceeding with a very important part of our education system.

Lord Nash: My Lords, I am grateful to the noble Lords, Lord Watson and Lord Hunt, and the noble Baroness, Lady Garden, for the four amendments in this group. They address important issues relating to the Institute for Apprenticeships and Technical Education and, in particular, what functions it will have. I will address my remarks only to these four amendments and will start by responding to Amendment 6. Ensuring that new further education institutions provide high-quality provision is of course of the utmost importance. Through the area reviews process for the further education sector, we are also putting the sector on a secure financial footing by ensuring that the provider base matches student demand.

However, the institute is to be established with a very specific remit in relation to the quality of reformed apprenticeships: to set the quality criteria for the development of apprenticeship standards and assessment plans; to approve or reject proposed standards or plans and review them periodically, as appropriate; and to ensure that all end-point assessments are quality assured, including the potential to quality assure them itself. It will also advise the Government on the maximum level of government funding available for each individual apprenticeship standard. And, of course, the proposals in this Bill seek to extend its functions to technical education qualifications and related matters. It has no role at all, and is not expected to have a role, in relation to the authorisation of new further education institutions, even those that will deliver technical education qualifications in the future. It is therefore not appropriate to make this amendment to the Bill in the light of the expected remit of the institute.

I turn to Amendment 8, for which I am grateful to the noble Baroness, Lady Garden, and I wish her a happy birthday.

Baroness Garden of Frognal: What better way to spend it?

Lord Nash: I hope that she will be pleased to hear that we plan to finish at 7.45 pm, so she will have time to enjoy it and celebrate.

The amendment includes a number of functions that are essential for the institute to be able to discharge its remit effectively. However, the institute already has responsibility for carrying out the vast majority of these functions. Setting, maintaining and overseeing standards for apprenticeships and technical education is absolutely central to its role. We will also ensure strong recognition and transferability through continuing to secure the delivery of apprenticeship certificates for reformed apprenticeships which have real value and worth for the employer and the apprentice. We expect that the institute will also have some responsibility in relation to certification, working with the Skills Funding Agency in its operational role of delivering certificates. As part of this, a record of all apprenticeship completions will be kept. The institute will use this to inform a number of its functions,

including the review of standards in the context of the country's wider skills needs.

Section ZA2 of the 2009 Act, inserted by the Enterprise Act 2016, requires the institute to have regard to the reasonable requirements of those with an interest in apprenticeships. This includes many of those listed in the amendment, including employers, apprentices and technical education students. The Government are able to write to the institute with guidance to which it must have regard when carrying out its functions; this can include asking it to consult certain bodies. We have just completed a consultation exercise on the draft of the first guidance document which asked the institute to work with particular organisations, such as those listed in the amendment, when carrying out particular functions.

We share the noble Baroness's enthusiasm for the promotion of apprenticeships in schools and colleges. Legislation is in place that requires schools to inform pupils about apprenticeships and other options. Noble Lords will be aware that we have recently announced a careers strategy and we will consider how apprenticeships can be promoted in schools and colleges as part of the development of that strategy.

Moving on to Amendment 13, I fully understand the importance of ensuring that all young people are able to access a range of suitable education and training opportunities, including technical education and apprenticeships where appropriate. I know that this concern is shared by a great number of noble Lords, some of whom made eloquent and most welcome contributions at Second Reading, including the noble Lord, Lord Addington, my noble friend Lady Stedman-Scott and the noble Earl, Lord Listowel. The key to achieving this aim is to ensure that suitable provision is available to accommodate the needs of a wide range of learners. The effect of this amendment would be to require the Institute for Apprenticeships and Technical Education, when exercising its functions, to have regard to the duty of local authorities to ensure that sufficient provision is available for all young people in their areas between the ages of 16 and 19, as well as for those young people in their areas aged 19 to 25 who are covered by an education, health and care plan.

I would like to reassure noble Lords that I am absolutely mindful of the need to ensure that the institute takes account of the needs of all learners, including those who have had a difficult start in life or who have special educational needs and disabilities. However, legal provision has already been made to ensure this. Section ZA2(1) of the 2009 Act, when it is commenced in April, will require the institute to take account of a range of factors, including the reasonable requirements of persons who wish to undertake training and education, when carrying out its functions. This will apply regardless of the type of provider serving those learners or indeed how that provision has been commissioned. As many young people as possible should be able to access technical education, which is valued by employers and has been approved by the institute. Noble Lords will also be aware that the Equality Act 2010 places a duty on public sector bodies, including the institute, to promote equality of opportunity across all forms of education and to ensure that their actions do not disadvantage those with protected characteristics, including disability, pregnancy and maternity.

Our wider reforms will also support access for those who have low prior attainment or require additional support. In particular, the transition year will provide young people aged 16 or older where their education has been delayed, with tailored catch-up provision to enable them to access the same range of education and training opportunities as their peers, getting them back on track and helping to tackle the challenges they face obtaining qualifications valuable to their future career prospects.

7.15 pm

We have also undertaken an equalities impact assessment of our technical education reforms. This was published alongside the post-16 skills plan, and concluded that our proposals would be likely to have a positive impact on individuals with protected characteristics, as defined by the Equality Act.

I fully understand the importance of Amendment 14 and agree that apprenticeships and technical education should be accessible to all, including disadvantaged members of society. I know from Second Reading how important this is to many noble Lords. Promoting equal opportunities for all, including those who are vulnerable, is very important and goes to the heart of our reforms. I reassure noble Lords that the institute will have due regard to widening access and participation. Amendments made by the Enterprise Act 2016 require the institute to have regard to the reasonable requirements of persons who may wish to undertake education or training that is within its remit. This means that a person's background should have no bearing on whether they are able to take a course of technical education. In addition, that legislation allows the Secretary of State to provide the institute with further guidance.

Furthermore, the need to promote equality of opportunity across all forms of education already exists in legislation under the provisions of the Equality Act 2010. As noble Lords will be aware, this provides a legal framework that protects the rights of individuals and advances equality of opportunity to all. Noble Lords might also be interested to learn that our equalities impact assessment established that individuals with protected characteristics are likely to benefit from the reforms to technical education. This includes those with a special educational need or disability, those with low prior attainment, and those who are economically disadvantaged.

I hope that my responses to these four amendments provide noble Lords with sufficient reassurance about our plans for the institute and its functions that they will withdraw or not move their amendments.

Lord Watson of Invergowrie: I thank the Minister for that response and thank the noble Baroness, Lady Garden, for her contribution. I should have said at the start that we support the suggestions in Amendment 8. I noticed that the Minister said that most of these were already covered. That impacts on a point that I will come back to in a minute about the operational plan for the institute.

[Lord Watson of Invergowrie]

The Minister somewhat took the wind out of my sails on Amendment 6 by saying that there was no role for the institute with regard to new institutions. I take it that just the Secretary of State would have the ability to give them the green light, if that is the case. In which case, I am rather surprised that it got accepted as an amendment. None the less, I hear what the Minister says, and if that is the case, so be it.

On Amendment 14 in particular, the Minister did not answer a couple of the questions I put to him. One was the point about the percentages for categories of those underrepresented in the take-up of apprenticeships. I mentioned the 20% target for people from black and minority ethnic communities and asked whether there were plans for anything similar for women, care leavers and indeed any other underrepresented groups. I am happy for him to write to me on that. I do not suggest what the percentages should be, but these are underrepresented, so by definition it is appropriate that some action is taken to bring them more into line with other groups.

Lord Nash: We do not intend to have any targets, but as I said, we intend there to be the expectation that the opportunity to participate should be widely available for all students.

Lord Watson of Invergowrie: Yes, but that is a bit woolly. Students have always had the opportunity; the point is that certain groups are not taking it up in sufficient numbers. It would be interesting to know why black and minority ethnic people have been specifically identified, and yet others have not. If work needs to be done there to bring underrepresented groups more into the mainstream, surely the institute should concentrate particularly on that. However, that would impact on the institute's operational plan. In the Minister's letter today, he mentioned that the shadow institute's draft operational plan is out for consultation but only for a few more days. He said that that will provide more detail on how the institute would be expected to deliver its role. I have not yet looked at that but I will do so. I hope that it will have something to say on broadening participation because we may wish to return to that matter on Report.

For the moment, we have covered the issues and I thank the Minister for his response. I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Amendments 7 to 9 not moved.

Amendment 10

Moved by ***Baroness Garden of Frognal***

10: After Clause 1, insert the following new Clause—

"Technical Education Qualifications"

In this Part "technical education qualifications" means the full range of work-based qualifications, whether technical, craft, creative, public sector, or professional."

Baroness Garden of Frognal: The amendment is in my name and that of my noble friend Lord Storey. I have previously raised concerns about the limitations of the word "technical" in the Bill. The long-standing term "vocational", which was inclusive of all trades, crafts and professions that involved skills and practical aptitudes, has apparently fallen out of favour and "technical" has been deemed to carry more status. However, stonemasons, florists, film-makers, nurses, care workers and caterers do not see themselves as primarily technical operatives.

I worked for City & Guilds for 20 years. In my day, we did not think of it as a quasi-governmental organisation but rather as a long-standing, highly respected, royal chartered, charitable educational organisation. But there we are. I hope that times have not changed too much. In my day there were two main strands of vocational qualification—technical and craft. Then there were personal services, which was another important skill area, in which people skills were of paramount importance.

At Second Reading, the Minister, in reply to my question about whether craft, creative and service skills were intended to be covered by technical education, said:

"The answer is that they are".—[*Official Report*, 1/2/17; col. 1261.]

However, the Bill does not say that. It is surely only in an Alice in Wonderland world, or perhaps even under the new American regime, that words mean what I say they mean. I checked the dictionary—at my age, one has to do that sort of thing—and found that the prime definition of technical is,

"pertaining to the mechanical arts and applied sciences".

It was some comfort to find a secondary definition, which was,

"appropriate to a particular art, science, profession or occupation".

That is better but not what is widely understood by "technical".

For everyday purposes, the Bill should not be marginalising all those whose practical, work-based achievements are in craft, personal services or creative fields. The wording in my amendment may need some changes but the gist is that "technical" does not cover the myriad of work-based achievements. It needs expanding to be more inclusive if the new institute is really to be seen as a champion for all types of skill and practical achievement.

Rather than go through the whole Bill expanding "technical" each time it is mentioned, I propose that at the outset we explain that non-technical work skills will also come within the remit of the Bill. I hope that the Minister will see that this makes sense and be prepared to accept this modest and, I hope, helpful amendment. I beg to move.

Lord Lucas: My Lords, there is virtue in encompassing all this sort of education within one structure. I do not see the point in excluding bits because, presumably, they are felt to fall below the status of "technical". Areas such as retail or caring are as technical as a lot of jobs that are included in this structure. I therefore hope that this is an amendment and approach to which the Government will give consideration.

Lord Aberdare: My Lords, I add only one very small point: it seems to me that part of the problem with the esteem in which some of these technical and

professional qualifications are held is that they are seen in a rather narrow light. The word "technical" rather reinforces the problem. A lot of people who might be interested in creative or public sector qualifications or some others might be put off by the word "technical", which makes it seem more narrow than it needs to be.

Lord Nash: My Lords, I am grateful to the noble Baroness, Lady Garden of Frognal, and the noble Lord, Lord Storey, for tabling this amendment. I understand that they wish to ensure that all technical or work-based qualifications are included within these reforms and can benefit from them. I assure them that all relevant and appropriate occupations in the economy will be covered within the technical education routes and the qualifications offered to students following these routes. However, having thought carefully about how to achieve this, we hope to address it in the following way.

Each route, of which there are currently 15, provides a framework for grouping together occupations where there are shared training requirements. Each route will have an occupational map. Each map will identify all the occupations in the scope of that route, such as the digital route or the engineering and manufacturing route. These maps are currently being developed through a robust, evidence-based process, with input from employers, employer representatives, industry professionals and professional bodies.

It is important to be clear, however, that it will not be appropriate to include some occupations within the routes. The independent panel of the noble Lord, Lord Sainsbury, established the principle, which we have adopted, that technical education must require the acquisition of both a substantial body of technical knowledge and a set of practical skills valued by industry. As the panel made clear, there are some unskilled or low-skilled occupations which do not meet this requirement, as they can be learned quickly and on the job; such as that of a retail assistant. Therefore, it is not necessary or appropriate to offer technical education qualifications to people wishing to work in one of these occupations. It would not be the best use of their time or of taxpayers' money.

With this exception, I can assure the noble Baroness and the noble Lord that within the technical education routes there will be comprehensive coverage of the skilled occupations that are vital to the success of our economy. I can also assure them that the occupational maps will be reviewed regularly to ensure that they continue to reflect the needs of industry. We will listen to any evidence-based case from an employer who identifies a gap, if it meets the above criteria and they can demonstrate employer need and a genuine skills gap. I hope that the noble Baroness and the noble Lord will feel reassured enough to withdraw this amendment.

Lord Hunt of Kings Heath: Before the noble Baroness responds, I have two points. The Minister quoted from the Sainsbury review the definition of "technical" education. Why has that not found itself in the Bill? If the Sainsbury definition is going to set the boundaries of the 15 pathways, would it not have been helpful to pin it down some more? The noble Baroness, Lady Garden, is absolutely right to say that it would have been helpful to have that in the Bill.

My second point comes back to the issue raised by the noble Lord, Lord Aberdare. Sadly, in this country, "technical" does not have the status that we want it to have. You cannot legislate for that, but as we go through this it would have been interesting to hear from the Government how, in general, they think we are going to raise the status of the word "technical", so that when young people in particular consider a technical education, they see it as something to aspire to.

Baroness Garden of Frognal: My Lords, I am sorry that this has become more complicated to involve occupational maps and routes. I thought it was a very simple explanation: that there are different emphases in different vocational routes, for the want of a better word. Actually, included in the routes there are such things as "hair and beauty". There are technical elements to that, but there is a tremendous amount of personal skills and creativity also. Also included are "creative and design" and "catering and hospitality". There are technical aspects in just about all of these, but that is not their prime activity or focus. The people who go into those sorts of fields are not doing so because they love doing technical things but because they like working with people and creating things, and doing things that are not primarily technical.

I am sorry if the word "technical" has now been downgraded, but we really are running rings round this. We apparently do not like and have abandoned the word "vocational" because it is considered downmarket. The word "technical" was supposed to raise the profile and be a lot better, but now, suddenly, here are the noble Lords, Lord Hunt and Lord Aberdare, saying that "technical" is a pretty rubbish word too. I always quite liked "work-based", which is one of the terms that we used, as well as "practical". There are other terms that might not be deemed quite so lower class as "technical".

As I said, my amendment was intended simply to try to protect all those people working in fields where they think of themselves primarily not as technical but as creative, with personal skills and so on, which is what the Government are trying to include in the Bill. I accept that the Institute for Apprenticeships has to encompass all those routes too. I am sorry but I may have to bring this back on Report. We will perhaps have a discussion before then to see whether the noble Lord can think of a really upmarket word to take in all the different aspects of practical skills that we are looking for.

Lord Nash: I shall be delighted to have a very technical conversation with the noble Baroness about this. I heard what she said about words meaning what they mean, but I am sure that she did not quite mean what she said when she used the expression "lower class". However, we can have a discussion about this to see whether we think that anything more needs to be done.

Baroness Garden of Frognal: With that, I beg leave to withdraw the amendment.

Amendment 10 withdrawn.

Amendment 11

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

11: After Clause 1, insert the following new Clause—

"Information about technical education: access to English schools

(1) The Education Act 1997 is amended as follows.

(2) After section 42A insert—

"42B Information about technical education: access to English schools

(1) The proprietor of a school in England within subsection (2) must ensure that there is an opportunity for a range of education and training providers to access registered pupils during the relevant phase of their education for the purpose of informing them about approved technical education qualifications or apprenticeships.

(2) A school is within this subsection if it provides secondary education and is one of the following—

(a) an Academy;

(b) an alternative provision Academy;

(c) a community, foundation or voluntary school;

(d) a community or foundation special school (other than one established in a hospital);

(e) a pupil referral unit.

(3) The proprietor of a school in England within subsection (2) must prepare a policy statement setting out the circumstances in which education and training providers will be given access to registered pupils for the purpose of informing them about approved technical education qualifications or apprenticeships.

(4) The proprietor must ensure that the policy statement is followed.

(5) The policy statement must include—

(a) any procedural requirements in relation to requests for access;

(b) grounds for granting and refusing requests for access;

(c) details of premises or facilities to be provided to a person who is given access.

(6) The proprietor may revise the policy statement from time to time.

(7) The proprietor must publish the policy statement and any revised statement.

(8) The Secretary of State may by regulations make provision supplementing subsection (1), for example provision about who is to be given access to pupils, to which pupils they are to be given access and how and when.

(9) For the purposes of this section the relevant phase of a pupil's education is the period—

(a) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 13, and

(b) ending with the expiry of the school year in which the majority of pupils in the pupil's class attain the age of 18.

(10) In this section "approved technical education qualification" means a qualification approved under section A2DA of the Apprenticeships, Skills, Children and Learning Act 2009."

(3) In section 42A (provision of careers guidance in schools in England), in subsection (7), omit the definition of "apprenticeship" (which has become outdated).

(4) In section 45A (guidance as to discharge of duties: schools in England), in subsection (2), for "42A(1) or (4)" substitute "section 42A(1) or (4) or 42B".

(5) In section 46 (extension or modification of provisions of sections 43 to 45), in subsection (1)—

(a) after "42A," insert "42B,";

(b) after "42A(6)," insert "42B (9)"."

Amendment 11 agreed.

Committee adjourned at 7.31 pm.